

CITY OF DALY CITY

Regular Meeting - CITY COUNCIL

AGENDA

Monday, January 10, 2011 - 7:00 PM

For those wishing to address the City Council on any Item on the Agenda or under Public Appearances/Oral Communications, please complete a Speaker Card located at the entrance to the Council Chambers and submit to a Staff Member as early in the meeting as possible.

Persons with disabilities who require auxiliary aids or services in attending or participating in this meeting should call the office of the City Clerk at 991-8078 as soon as possible.

CALL TO ORDER:

PLEDGE TO THE FLAG:

ROLL CALL:

PRESENTATIONS:

Commending the Graduates of Citizens Academy III

Annual Holiday Decorating Contest Awards

STAR Award Recognition

APPROVAL OF MINUTES:

Regular Meetings of October 11, November 8, 2010 and Special Meeting of December 6, 2010

APPROVAL OF AGENDA:

CONSENT AGENDA

All items listed on the Consent Agenda are considered to be routine and may be approved by one roll call vote of the City Council. There shall be no separate discussion of the matters on the Consent Agenda unless requested by a member of the City Council. If discussion is required, that item will be removed from the Consent Agenda and will be considered separately at the end of the Agenda.

AVAILABILITY OF PUBLIC RECORDS:

All public record to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the City Clerk's Office, City Hall located at 333 90th Street, Daly City, CA during normal business hours, at the same time that the public records are distributed or made available to the legislative body.

Resolutions :

1. Amending Traffic Regulations to Install a Stop Sign on Whittier Street at Frankfort Street
2. Notice of Completion for Gellert Boulevard, 87th Street and Bellevue Avenue Rehabilitation Project
3. Approval of Final Map and Improvement Agreement for Mission Street Condominiums (SUB07-1) - 7555 Mission Street
4. Acceptance of Public Improvements for Kauai Estates Subdivision
5. Authorizing the City Manager to Execute a Memorandum of Understanding between the San Mateo County Transit District and the City of Daly City for Grant Funding for a Bus Shelter and other Improvements on Bayshore Boulevard
6. Accept and Appropriate a Public Library Staff Education Program Grant

Authorizing Budgetary Adjustments:

7. Appropriation of Grant Funds for FY 2010-2011 for Healthy Aging Response Team Outreach Worker Hourly Wages

END OF CONSENT AGENDA

PUBLIC HEARINGS:

8. Supplemental Law Enforcement Service Funds

COMMUNICATIONS:

9. Use Permit, Design Review and Environmental Assessment for a New Clearwire Wireless Facility at 99 Elmwood Drive.
 - A. (EA) Categorical Exemption
 - B. Findings
 - C. UPR-10-10-2819, DR-10-10-2820

PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

NOTE: Speakers are limited to two minutes, unless modified by the Mayor. The Council cannot take action on any matter raised under this item

APPOINTMENTS: Board/Commission Membership Committee Appointments

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REPORTS:

10. Council Committee
11. City Council
12. Staff

ADJOURNMENT:

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The meeting was called to order by Mayor Guingona at 7:35 P.M.

ROLL CALL: Councilmembers Present:

Michael P. Guingona, Mayor
David J. Canepa
Maggie Gomez
Carol L. Klatt
Sal Torres

Staff Present:

Patricia E. Martel, City Manager
Kerry E. Burns, Assistant City Manager
Rose L. Zimmerman, City Attorney
K. Annette Hipona, City Clerk

Councilmember Torres stated it has come to his attention after the agenda was published that we are currently celebrating October as Filipino-American History Month.

It was moved by Councilmember Torres, seconded by Vice-Mayor Klatt and carried to add to the agenda under presentations a resolution declaring October as Filipino-American History Month.

PRESENTATIONS:

Proclaiming Filipino-American History Month – October 2010

Mayor Guingona presented a proclamation proclaiming October 2010 as Filipino American History Month to Perla Ibarrientos. Ms. Ibarrientos thanked the Council.

Proclamation for National Arts and Humanities Month

Mayor Guingona presented a proclamation proclaiming October 2010 as National Arts and Humanities Month to Bea Sharp, Peninsula Arts Council. Ms. Sharp thanked the Council.

Proclamation for Fire Prevention Month - October 2010

Mayor Guingona presented a proclamation proclaiming October 2010 as Fire Prevention Month to Deputy Fire Chief/Fire Marshal Frank Panacci. Mr. Panacci thanked the Council.

STAR Awardees Recognition

Assistant City Manager Kerry Burns announced the following STAR Awardees from the Department of Parks and Recreation, Kelley Braas, Jim Manson, Juan Melgar, Paul Thompson; and from the Department of Water and Wastewater Resources, Cynthia Royer. Each was nominated by the Director of their departments for outstanding performances in assessing the volume of water in seven City parks and creating a model to analyze that volume so it can be reduced.

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PRESENTATIONS: Continued

Management Talent Exchange Program

City Manager Patricia Martel stated she developed this program to give Daly City employees an opportunity to learn new skills and learn more about City operations. Ms. Martel introduced the First Class of the Management Talent Exchange Program:

- Siu Li Ley was assigned to the Department of Economic and Community Development to create performance measures to identify areas of improvement in the code enforcement process.
- Warren Chan was assigned to the Department of Parks and Recreation to participate in the building of the Bayshore Heights Park playground and developing a system to track tree work throughout the City.
- Natalia Turnbeaugh was assigned to the Department of Public Works to develop a system to track maintenance workers' daily activities and establish a tracking system to base performance measures.
- Leslie Peay was assigned to the Department of Water and Wastewater Resources to enhance Daly City's water conservation program along with environmental compliance associated with new stormwater regulations and sanitary sewer overflows.
- Jennifer Der was assigned to the Fire Department to assess their fire record management system software and identify ways to use it more effectively and efficiently.

APPROVAL OF MINUTES:

Regular Meeting of September 13, 2010

It was moved by Councilmember Gomez, seconded by Vice-Mayor Klatt and carried to approve the minutes of September 13, 2010.

APPROVAL OF AGENDA:

CONSENT AGENDA

Mayor Guingona stated it was requested that Item No. 17, Appropriate \$3,600 from Fund Balance in the Traffic Enforcement Fund to Comply with the Red Light Camera Program Regulations, would be taken at the end of the Consent Agenda.

RESOLUTIONS:

Amended Residential Combined Domestic/Fire Water Meter Charge

Resolution No. 10-129, Authorizing Adoption of Amended Water Meter Charges Residential Combined Domestic/Fire Water Meter Charge

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CONSENT AGENDA: Continued

RESOLUTIONS: Continued

Adoption of Composite Summary Memorandum of Understanding between the City of Daly City and the Daly City Fire Management

Resolution No. 10-130, Adopting Composite Summary Memorandum of Understanding with the Daly City Fire Management Bargaining Unit (August 1, 2010 through July 31, 2011)

Adoption of Composite Summary Memorandum of Understanding between the City of Daly City and Dispatchers/ Police Assistants

Resolution No. 10-131, Adopting Composite Summary Memorandum of Understanding with Teamsters Local 856 Public Safety Dispatchers and Police Assistants (October 1, 2010 through September 30, 2012)

Notice of Completion for Street Resurfacing 2010 - Phase I

Resolution No. 10-132, Accepting Completion of Certain Project in the Department of Public Works (Street Resurfacing 2010 Phase I)

Amending Traffic Regulations: Designate 55-feet of a No Parking (Red) Zone on the South Side of North Mayfair Avenue, Across the Street from 138 and 140 North Mayfair Avenue (TSR 11-12)

Resolution No. 10-133, Establishing Traffic Regulations

1. Designate 55-feet of a No Parking (Red) Zone on the South Side of North Mayfair Avenue, Across the Street from 138 and 140 North Mayfair Avenue (TSR 11-12)

Accepting Transit Oriented Development Grant and Appropriating Matching Funds for Citywide Accessibility Improvements

Resolution No. 10-134, Authorizing the Filing of an Application for Federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) Funding and Committing the Necessary Non-Federal Match and Stating the Assurance to Complete the Project

Authorization to Execute an Agreement with the State of California Department of Education and Appropriation of Grant Funds for the Bayshore Neighborhood Afterschool Education and Safety Program

Resolution No. 10-135, Authorizing Execution of Agreement with the State of California Department of Education and Appropriation of Grant Funds (Bayshore Neighborhood Afterschool Education and Safety Program)

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CONSENT AGENDA: Continued

RESOLUTIONS: Continued

Authorization to Execute an Agreement with the Jefferson Elementary School District and Appropriation of Grant Funds for the After School Education and Safety Program

Resolution No. 10-136, Authorizing Execution of Agreement with the Jefferson Elementary School District and Appropriation of Grant Funds (After School Education and Safety Program)

Set Time and Place for Public Hearing on Proposed Adoption of New Model Codes Adopted by the State of California – Hearing 11/8/10

Resolution No. 10-137, Setting Time and Place for Public Hearing Regarding Adoption of New Model Codes Adopted by the State of California and Consideration of Amendments to Adopted Codes, Hearing 11/8/10 – 7:00 P.M.

Authorization to File Unfunded Mandates Test Claim

Resolution No. 10-138, Authorizing Filing of Test Claim with California Commission on State Mandates to Seek Reimbursement for Costs Re: Municipal Regional Stormwater Permit

Amending Conflict of Interest Resolution - Designated Employees

Resolution No. 10-139, Amending Daly City's Conflict of Interest Code as to Positions

Fiscal Year 2009-10 Consolidated Annual Performance Evaluation Report for the Community Development Block Grant and HOME Programs

Resolution No. 10-140, Approving Submission to the Federal Department of Housing and Urban Development (HUD) for Fiscal Year 2009-2010 Consolidated Annual Performance Evaluation Report for the Community Development Block Grant Program

CHECK REGISTERS:

Check Registers for the Month of August 2010

Check Registers for the Month of September 2010

AUTHORIZING BUDGETARY ADJUSTMENTS:

Appropriating \$20,000 for a Feasibility Study of a North County Communications Joint Powers Authority

Resolution No. 10-141, Authorizing Budgetary Adjustments and Appropriations for Fiscal Year 2010-2011

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CONSENT AGENDA: Continued

AUTHORIZING BUDGETARY ADJUSTMENTS: Continued

Appropriate Additional New Revenue of \$78,211 for Street Resurfacing - Prop 1B

Resolution No. 10-142, Authorizing Budgetary Adjustments and Appropriations for Fiscal Year 2010-2011

ITEM ADDED AT MEETING:

Proclaiming Filipino-American History Month – October 2010

Resolution No. 10-143, Proclaiming Filipino-American History Month in Daly City October 2010

END OF CONSENT AGENDA

It was moved by Councilmember Torres, seconded by Vice-Mayor Klatt and carried to approve and adopt the Consent Agenda, as amended.

AUTHORIZING BUDGETARY ADJUSTMENTS:

Appropriate \$3,600 from Fund Balance in the Traffic Enforcement Fund to Comply with the Red Light Camera Program Regulations

The person wished to speak on Item No. 18 instead.

It was moved by Councilmember Torres, seconded by Vice-Mayor Klatt and carried by unanimous roll call vote to adopt the following resolution:

Resolution No. 10-144, Authorizing Budgetary Adjustments and Appropriations for Fiscal Year 2010-2011

PUBLIC HEARINGS:

Consideration of Amendment to HUD Action Plan for Fiscal Year 2008-09 Pertaining to Homelessness Prevention and Rapid Rehousing Program Funding

Housing Coordinator Lenelle Suliguin stated Daly City received \$510,070 in Homelessness Prevention and Rapid Rehousing Program funds. The funds are part of the American Recovery and Reinvestment Act of 2009 and are intended to assist households from becoming homeless or to rapidly rehouse households that are already homeless. In April 2009, the City Council amended the 2008-09 HUD Action Plan to incorporate the Homelessness Prevention and Rapid Rehousing Program and budget.

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PUBLIC HEARINGS: Continued

Consideration of Amendment to HUD Action Plan for Fiscal Year 2008-09 Pertaining to Homelessness Prevention and Rapid Rehousing Program Funding – Cont'd.

In September 2009, the City approved a contract with Shelter Network to carry out the Homelessness Prevention and Rapid Rehousing Program activities. Over the last several months of program implementation, Shelter Network has seen the demand for homelessness prevention exceed the demand to rapidly rehouse homeless persons. We would like to amend the Homelessness Prevention and Rapid Rehousing Program budget to shift the allocation of funds to our homelessness prevention.

Mayor Guingona opened the public hearing.

Jacob Lile, Shelter Network, stated he was present to answer Council's questions and to request they be allowed to transfer funds from rapid rehousing to homelessness prevention.

It was moved by Councilmember Torres, seconded by Vice-Mayor Klatt and carried to close the public hearing.

It was moved by Councilmember Gomez, seconded by Councilmember Canepa and carried by unanimous roll call vote to adopt the following resolution:

Resolution No. 10-145, Amending 2008-2009 HUD Action Plan Pertaining to Homelessness Prevention and Rapid Rehousing Program Funding (HPRP)

COMMUNICATIONS:

Approval of Written Response to the 2009-2010 San Mateo County Civil Grand Jury Report: Sex Offender Law Enforcement in San Mateo County

City Manager Patricia Martel presented the 2009-2010 San Mateo County Civil Grand Jury Report, relating to Sex Offender Law Enforcement. She stated the issue the Grand Jury identified was: Are there adequate investigation, coordination and enforcement of sexual offenses by San Mateo County law enforcement agencies?

Ms. Martel reviewed the Civil Grand Jury findings, recommendations, and the City's draft responses to the report. A copy of the report is on file in the Office of the City Clerk.

After the City Council reviews and provides final direction on the draft response, the City Manager will submit the approved response to the San Mateo County Civil Grand Jury Report to the Presiding Judge of the Superior Court. In addition, the City will submit the written response to be placed on the Civil Grand Jury website and make available in the City Clerk's Office.

Councilmember Canepa suggested creating a link on the City's website to the Megan Law's website.

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COMMUNICATIONS: Continued

Approval of Written Response to the 2009-2010 San Mateo County Civil Grand Jury Report: Sex Offender Law Enforcement in San Mateo County – Cont'd.

It was moved by Vice-Mayor Klatt, seconded by Councilmember Gomez and carried to accept the report and authorize the City Manager to prepare a written response.

RESOLUTIONS:

Residential and Commercial Photo Voltaic Permit Fees

Assistant Director of Economic and Community Development Peter Pirnejad gave a PowerPoint presentation on the residential and commercial photo voltaic permit fee reduction recommendation and outlined the cost of service method for both residential and commercial installations.

Mr. Pirnejad stated he received an email from Kurt Newick asking the City to reduce the residential fee and to prepare guidelines that would expedite an over the counter review. Mr. Newick also stated that State law requires cities to go through this cost of service exercise to ensure that cities are charging the true cost of the service.

It was moved by Councilmember Torres, seconded by Councilmember Canepa and carried by unanimous roll call vote to adopt the following resolution:

Resolution No. 10-146, Authorizing Residential and Commercial Photo Voltaic Permit Fees

PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

Sylvia Alvarez Lynch called the Daly City upper management salaries outrageous after five years of raises totaling more than 32%. She went on to say that in 2008 our City Manager received more than \$300,000 and many department heads received more than the US Senators and Federal judges while our median Daly City family income is less than \$70,000.

Dana Smith said the Council voted in 2002 for a 6% raise but the former City Manager received a 25% raise and the former City Attorney received a 20% raise. She suspects some very funny math and pension spiking and compared Daly City to Bell, California.

Judith Christensen handed packets of information to the Council, City Manager, City Clerk and City Attorney regarding what she called the financial debacle. Ms. Christensen went on to say that the situation demands an independent investigation and full restitution of all moneys owed to the people of Daly City.

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APPOINTMENTS:

Board/Commission Membership Committee Appointments

There were no appointments.

REPORTS:

Council Committee

Council Committee Meetings, September 13 - October 10, 2010

The Council Committee reported on the Centennial Committee (Torres/Gomez)

City Council

Councilmember Gomez reported that she attended the meeting of the Office of Emergency Service Committee two weeks ago, at which time she was briefed on the San Bruno Fire. Councilmember Gomez reported that United Way is funding about \$2,000,000 for a 211 Help Link Call Center to help people in need.

Councilmember Gomez stated she met with a resident on St. Francis Boulevard who complained about parking overflowing into his neighborhood from the Skyline apartments.

Vice-Mayor Klatt thanked the employees on the fall festival. Councilmember Torres thanked the City Manager for creating the Management Talent Exchange Program.

Mayor Guingona reported that the re-opening of the Westmoor Pool will be on Saturday at 10:00 a.m. He wanted to recognize his son for taking second in the Pan-American Judo Championships.

Staff

There were no reports.

ADJOURNMENT:

It was moved by Mayor Guingona, seconded Councilmember Canepa and carried to adjourn the meeting at 10:00 P.M. in memory of Claire Johnston, Victor Rodriguez and William James Mahoney, Concepcion De La Cruz, Ronaldo Guzman, Henry Pengel, Andres Portillo, Tonsi Zidich and Ben T. Largusa.

City Clerk

Approved as submitted, this _____
day of _____, 2011.

Mayor

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The meeting was called to order by Mayor Guingona at 7:00 P.M.

ROLL CALL: Councilmembers Present:

Michael P. Guingona, Mayor
David J. Canepa
Maggie Gomez
Carol L. Klatt
Sal Torres

Staff Present:

Patricia E. Martel, City Manager
Kerry E. Burns, Assistant City Manager
Rose L. Zimmerman, City Attorney
K. Annette Hipona, City Clerk

PRESENTATIONS:

Certificates of Appreciation to Food Distribution Volunteers

In recognition of valuable contributions to the residents of Daly City for assistance with the Federal American Recovery and Reinvestment Act community distribution of Stimulus Food Boxes, assisting over 4300 residents, Mayor Guingona presented Certificates of Appreciation to the following:

Demolay of Daly City Crocker Chapter
Future Business Leaders of America Westmoor High School
Cheryl Crofts
Rita Meriweather
Kevin Matlock

Proclaiming November Pancreatic Cancer Awareness Month

Mayor Guingona presented a proclamation proclaiming November 2010 as Pancreatic Cancer Awareness Month to Sarah Broussard of Pancreatic Cancer Action Network.

APPROVAL OF AGENDA:

Mayor Guingona requested that the Council add to the agenda a resolution asking State Legislators to draft legislation to allow Daly City local control over certain specified events at the Cow Palace.

It was moved by Mayor Guingona, seconded by Vice-Mayor Klatt and carried to add a resolution requesting State Legislators to draft legislation to allow Daly City local control over certain specified events at the Cow Palace.

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CONSENT AGENDA

RESOLUTIONS:

Memorandum of Agreement with the Jefferson Union High School District for Teen Services

Resolution No. 10-147, Authorizing Execution of Agreement with the Jefferson Union High School District and Appropriation of Grant Funds (After School Safety and Enrichment of Teens Program)

Resolutions Amending Public Employees' Medical and Hospital Care Act for Members of Specific Employee Organizations (19 Resolutions)

Resolution No. 10-148, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Members Represented by the American Federation of State, County and Municipal Employees, Local 829

Resolution No. 10-149, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act with Respect to Members of the City Council

Resolution No. 10-150, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act with Respect to Members of the City Council Non-PERS

Resolution No. 10-151, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Economic & Community Development Professional Staff Association

Resolution No. 10-152, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications of City Clerk and City Treasurer

Resolution No. 10-153, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Teamsters Local 856, Safety Inspectors

Resolution No. 10-154, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Fire Management

Resolution No. 10-155, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act with Respect to Unaffiliated Alternate Miscellaneous Employees (Part-Time Hourly)

Resolution No. 10-156, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act with Respect to Unaffiliated Miscellaneous Employees (Hourly)

Resolution No. 10-157, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act with Respect to Members of Executive Management

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CONSENT AGENDA: Continued

RESOLUTIONS: Continued

Resolutions Amending Public Employees' Medical and Hospital Care Act for Members of Specific Employee Organizations (19 Resolutions) – Cont'd.

Resolution No. 10-158, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Operating Engineers/Stationary Engineers Local 39

Resolution No. 10-159, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Plant Maintenance Association

Resolution No. 10-160, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Police Management Association

Resolution No. 10-161, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Daly City Police Officers Association

Resolution No. 10-162, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Secretary III Association

Resolution No. 10-163, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Teamsters Local 856, Clerical Technical

Resolution No. 10-164, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act for Classifications Represented by the Teamsters Local 856, Public Safety Dispatchers and Police Assistants

Resolution No. 10-165, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act with Respect to Unaffiliated Public Safety Dispatchers and Police Assistants

Resolution No. 10-166, Setting Employers' Contribution Under Public Employees' Medical and Hospital Care Act with Respect to Eligible Unrepresented Employees

Authorization to Submit Application to the State of California Department of Transportation for Highway Safety Improvement Program Grant Funds for Traffic Signal Modification Project at Hickey Boulevard/Callan Boulevard Intersection

Resolution No. 10-167, Authorizing Submitting Grant Application to the State of California Department of Transportation (CalTrans) for Highway Safety Improvement Programs (HSIP) Grant Funds (Fiscal Year 2010-2011)

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CONSENT AGENDA: Continued

RESOLUTIONS: Continued

Authorization to Solicit Bids for the Reservoir 3 Seismic Upgrade Project

Resolution No. 10-168, Approving Bid Documents and Authorizing Bid Invitations Re: Reservoir 3 Seismic Upgrade Project

Amending Traffic Regulations to Prohibit Left Turns and Establishing No Parking and Loading Zones at Various Locations

Resolution No. 10-169, Establishing Traffic Regulations

1. Designate 10-foot No Parking (Red) zone along the north curb of Mission Street, north of the Jefferson High School driveway at 6996 Mission Street, extending in a southerly direction.
2. Prohibit left-turns at the driveway exiting Fernando Rivera and Thomas Edison Schools between the hours of 8:00 — 8:30 a.m. and 2:45 — 3:15 p.m., Monday through Friday.
3. Prohibit left-turns at the driveway exiting Franklin D. Roosevelt School between the hours of 8:15 — 8:45 a.m. and 2:30 — 3:15 p.m., Monday through Friday, and 12:20 — 12:50 p.m. on minimum school days.
4. Re-designate existing 50-ft. No Parking (Red) zone to Passenger Loading (White) zone along the east curb of El Dorado Drive, commencing at the curb return at the southerly entrance to Daniel Webster School and extending in a southerly direction. The White zone is to be enforceable between the hours of 8:00 — 8:30 a.m. and 1:30 — 3:30 p.m. on school days.
5. Relocate existing 75-ft. Passenger Loading (White) zone along the east curb of Miriam Street to south of the driveway at 11 Miriam Street. The White zone is to be enforceable between the hours of 8:00 — 8:30 a.m. and 1:30 — 3:30 p.m. on school days.
6. Designate 75-ft. Passenger Loading (White) zone along the west curb of Santa Barbara Avenue, commencing at the south crosswalk at Theta Avenue and extending in a southerly direction. The White Zone is to be enforceable between the hours of 8:00 — 8:30 a.m. and 1:30 — 3:30 p.m. on school days.
7. Designate 45-ft. Passenger Loading (White) zone along the north side of Eastmoor Avenue, commencing east of the crosswalk at Camelia Drive and extending in an easterly direction. Designate 45-ft. White zone along the north side of Eastmoor Avenue, commencing west of the crosswalk at Camelia Drive and extending in a westerly direction. The White Zones are to be enforceable between the hours of 8:00 — 8:30 a.m. and 1:30 - 3:30 p.m. on school days.

Acceptance of Office of Traffic Safety Grant/DUI Enforcement and Prevention Campaign 2010-2011

Resolution No. 10-170, Approving Receipt of Grant Funds from the California State Office of Traffic Safety for the Daly City Police Department

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CONSENT AGENDA: Continued

RESOLUTIONS: Continued

Time Extension for Use Permit UP08-12 for Overnight Pet Boarding at 315 Gellert Boulevard (PetSmart)

Resolution No. 10-171, Approving Extension of Use Permit UP08-12 for Overnight Pet Boarding at 315 Gellert Boulevard

Setting Time and Place for Public Hearing on Community Development and Housing - Hearing: 12/13/10

Resolution No. 10-172, Setting Time and Place of Public Hearing Re: Assessment of Community Development and Housing Needs and Authorizing the Solicitation of Request for Proposals of CDBG Funds

Authorizing Execution of Contract with Dowling Associates, Inc. for General Plan Travel Demand Model Consultant

Resolution No. 10-173, Approving and Execution of Contract and Budget Allocation for Development of Travel Demand Model Consultant

END OF CONSENT AGENDA

It was moved by Councilmember Torres, seconded by Vice-Mayor Klatt and carried to approve and adopt the Consent Agenda, as amended.

ADDED ITEM:

RESOLUTION:

State Legislators to Draft Legislation to Allow Daly City Local Control Over Certain Specified Events at the Cow Palace

Mayor Guingona read the resolution into the record, a copy of which is on file in the Office of the City Clerk. The City Council is requesting that State Senator Leland Yee and State Assemblywoman Fiona Ma draft legislation and take the necessary steps to grant local control to Daly City over certain specified events that take place at the Cow Palace.

It was moved by Vice-Mayor Klatt, seconded by Councilmember Torres and carried by unanimous roll call vote to adopt the following resolution:

Resolution No. 10-174, Requesting State Legislators to Draft Legislation to Allow the City of Daly City Local Control Over Certain Specified Events at the Cow Palace

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PUBLIC HEARINGS:

Adoption of Model Codes Adopted by the State of California

Chief Building Supervisor/Building Official Val Mandapat introduced the 2010 Edition of the California Building, Residential, Green Building Standards, Mechanical, Electrical, Fire, and Plumbing Codes, including the 2009 International Property Maintenance Code.

Mr. Mandapat stated the State of California recently published the International Model Codes, which will become effective January 1, 2011. The California codes are based on the 2009 Edition of the International Building and International Residential Code, International Fire Code, Uniform Plumbing and Mechanical Code 2009 Editions and the National Electrical Code 2008 Edition.

New in the State of California is the separation of the residential code and building code making regulations of single and two-family residential buildings less commercialized in regulations. The other new regulation is the California Green Building Standards Code, which is published by the Building Standards Commission. This code is further raising the energy and water savings standards of buildings and providing guidelines for material conservation including environmental quality.

By adopting the 2010 building codes, Daly City will be enforcing codes that are consistent with State regulations. The new codes reflect changes in technology, fire safety techniques and the building industry including environmental.

Mr. Mandapat reviewed the proposed basic changes to the Municipal Code outlined in the Agenda Report.

Fire Marshal Frank Panacci stated we only have numerical changes that refer to the California Fire Code and we added Appendix J, which relates to firefighters' safety and communications that entails a developer/builder of a high speed rail or a building that can not receive communications to the firefighters or emergency responders, supply some kind of equipment that will allow some kind of communication to emergency crews.

Mayor Guingona opened the public hearing.

It was moved by Vice-Mayor Klatt, seconded by Councilmember Torres and carried to close the public hearing.

It was moved by Councilmember Torres, seconded by Vice-Mayor Klatt and carried that Ordinance No. 1353 be read by title only by the City Attorney.

Councilmember Gomez introduced the following ordinance:

Ordinance No. 1353 Amending Title 15 of the Daly City Municipal Code, by Repealing and Replacing Chapters 15.00, 15.08, 15.14, 15.16, 15.20, 15.22, 15.24, 15.32, 15.60; Repealing Chapters 15.12, 15.36 15.58; Adding Chapter 15.10 - Residential Building Code; and Adding Chapter 15.22 – California Green Building Standards Code Thereof, as Set Forth in Sections 1 Through 17 Herein After

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AWARD OF BIDS/CONTRACTS:

Fire Department Mobile Radios

Deputy Fire Chief Richard Johnson stated the North County Fire Authority, on behalf of the Cities of Brisbane, Daly City and Pacifica, applied for grant funding and was awarded a project of \$390,717.50 for the upgrading of mobile radios and fire station alerting communications systems for all jurisdictions to conform to all federal mandates.

It is recommended that the City Council accept Metro Mobile's bid in the amount of \$147,154.79 for the purchase, installation and programming of mobile radios component of that grant.

It was moved by Councilmember Torres, seconded by Councilmember Gomez and carried by unanimous roll call vote to adopt the following resolution:

Resolution No. 10-175, Authorizing Purchase, Installation and Programming of Mobile Radios

PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

The following individuals asked the Council to reconsider the City's financial contribution to the Housing Endowment and Regional Trust (HEART) fund:

Pat Saunders, Broadmoor Presbyterian Church/Peninsula InterFaith Action
Shirley Stone, Broadmoor Presbyterian Church/Peninsula InterFaith Action
Karyl Eldridge, HEART Board Member/Peninsula InterFaith Action
Judy Burnham, Broadmoor Presbyterian Church/Peninsula InterFaith Action
Serena Ip, representing Housing Leadership Council/Housing Committee
Veronica Flores, representing Housing Leadership Council/Community Builders Program Committee member

Kevin Patterson, representing Red Barn Productions, Producer of the Great Dickens Christmas Fair at the Cow Palace, stated despite certain events bringing problems to the community, there are many more valuable events that take place at the Cow Palace.

Serena Ip, announced they are starting a Community Builders Program and will be meeting with residents once a month at Hillcrest Gardens.

Sonny Quinquini, thanked the Council for the resolution on the Cow Palace issue. However, he suggested the Council reach out and get the community involved in the Cow Palace issue.

Pamela DiGiovanni addressed the Council with her concerns regarding the future development of the Christopher Columbus School site. She would like to be informed about the upcoming project.

CITY OF DALY CITY
MINUTES – REGULAR MEETING - CITY COUNCIL
NOVEMBER 8, 2010

Page 8

PUBLIC APPEARANCES/ORAL COMMUNICATIONS: Continued

Sylvia Alvarez Lynch compared Daly City to Bell, California and complained that our City Manager was making over \$300,000 and six Department Heads were making over \$180,000 when half our Daly City families survive on less than \$70,000.

Dana Smith reviewed a fifty year history of salary resolutions and Resolution No. 02-50 that authorized 6% raises. She expressed concern that the former City Manager and City Attorney received 25% and 20% raises in error and that proper oversight of these raises was lacking.

Judith Christensen stated City Manager refused to meet with Christensen and a San Mateo Times reporter together to review all evidence and Christensen fears that City Manager Ms. Martel plans to tell different stories to both. Ms. Christensen invited Councilmembers Torres and Guingona to join a future meeting.

APPOINTMENTS:

Board/Commission Membership Committee Appointments

It was moved by Councilmember Torres, seconded by Mayor Guingona and carried to appoint Olga Stavinskaya to the Personnel Board to fill the unexpired term of Laurie Rose L. Lubiano. Her term will expire July 28, 2014.

REPORTS:

Council Committee

Council Committee Meetings, October 11 - November 7, 2010

The Council Committees reported on the following:

Centennial Committee Meeting (Torres)
Taxi Cab Committee meeting (Gomez/ Klatt)

City Council

Councilmember Torres thanked Peninsula InterFaith Action Organization for the work they do with the community. He stated after reviewing the July 28, 2010 Council Meeting when the HEART issue came up, the Council decided to suspend the payment to HEART and agendaized the matter for further discussion. Councilmember Torres asked that the HEART funding issue be agendaized for the next meeting.

Vice-Mayor Klatt congratulated the Daly City Softball Team, which came in second at Project Read last Friday evening.

CITY OF DALY CITY
MINUTES – REGULAR MEETING - CITY COUNCIL
NOVEMBER 8, 2010

Page 9

REPORTS: Continued

City Council – Cont'd.

Vice-Mayor Klatt announced that a flyer for free electronic recycling with no company name or license number listed is being circulated asking people to leave this flyer with their electronic devices out with personal information on it. She stated you can instead call Joseph Curran for more information on electronic recycling or wait for the free electronic recycling at City Hall in February.

Councilmember Torres commended his daughter, Sofia, for joining the newspaper committee and becoming the official photographer, and his son Christen for winning a math test and for scoring his first soccer goal.

Staff

There were no reports.

ADJOURNMENT:

It was moved by Councilmember Gomez, seconded by Councilmember Torres and carried to adjourn the meeting at 9:00 P.M. in memory of Lilia “Baby” Corpus, Ellen “Muffie” Meier, Mauricio Vela, Eddie Regal Apostol, Joe Medina, Lila Burke, Rose Harris, Belma Margin, Neil Moe, Joan Wollman, Yu-Tian Chang and Ernesto A. Presas.

City Clerk

Approved as submitted, this _____

day of _____, 2011.

Mayor

CITY OF DALY CITY
MINUTES – SPECIAL MEETING - CITY COUNCIL
DECEMBER 6, 2010

The meeting was called to order by Mayor Guingona at 7:04 P.M.

ROLL CALL: Councilmembers Present:

Michael P. Guingona, Mayor
David J. Canepa
Maggie Gomez
Carol L. Klatt
Sal Torres

Staff Present:

Patricia E. Martel, City Manager
Kerry E. Burns, Assistant City Manager
Rose L. Zimmerman, City Attorney
K. Annette Hipona, City Clerk

Mayor Guingona introduced various dignitaries who were present.

GENERAL MUNICIPAL ELECTION:
(Consolidated with General Election)

Report on Certification of Official Canvass of Votes Cast

Resolution Declaring Results of Votes Cast

City Clerk Annette Hipona stated the Chief Elections Officer of the County of San Mateo hereby certified that an election was held within the boundaries of the City of Daly City on Tuesday, November 2, 2010 for the purpose of electing three (3) members to the City Council for four (4) year terms.

The Certification of Official Canvass of Votes cast is on file in the Office of City Clerk. For the record, Michael Guingona, Carol Klatt and Maggie Gomez were elected to the City Council.

It was moved by Vice-Mayor Klatt, seconded by Councilmember Torres and carried by unanimous roll call vote to adopt the following resolution:

Resolution No. 10-176, Declaring the Results of the General Municipal Election Held in the City of Daly City on November 2, 2010

PRESENTATIONS:

Mayor's Citizen of the Year Award

Mayor Guingona presented the Citizen of the Year Award to Daisy Li, owner of Moonstar Restaurant, in recognition of her dedicated service to the community.

CITY OF DALY CITY
MINUTES – SPECIAL MEETING - CITY COUNCIL
DECEMBER 6, 2010

Page2

FINAL ADJOURNMENT OF THE 49TH CITY COUNCIL

It was moved by Councilmember Gomez, seconded by Councilmember Torres and carried to adjourn the 49th City Council meeting at 7: 25 P.M.

CALL TO ORDER OF THE 50TH CITY COUNCIL

Councilmember Torres called to order the 50th City Council meeting at 7:25 P.M.

INSTALLATION AND ADMINISTRATION OF OATH OF OFFICE

Assemblywoman Fiona Ma administered the oath of office to Michael P. Guingona, Councilmember-Elect. Councilmember Guingona introduced his family and expressed appreciation to the citizens of Daly City for their support.

Anthony Klatt administered the oath of office to Carol L. Klatt. Councilmember Klatt introduced her family and expressed appreciation for the citizens of Daly City continued support and endorsement.

William Nack, 2nd Vice President, San Mateo County Building Trades Council, administered the oath of office to Maggie A. Gomez. Councilmember Gomez introduced her family and friends and expressed appreciation for the Daly City voters' vote of confidence and for the support of friends.

Upon roll call, Councilmembers Canepa, Gomez, Klatt, Torres and Guingona were recorded present.

Mayor Guingona stated this past year has been challenging and looked forward to continue working with his colleagues for Daly City.

Brian Parkinson presented Mayor Guingona with a Certificate of Recognition on behalf of Congressman Jackie Speier.

REORGANIZATION OF CITY COUNCIL:

Office of Mayor

Mayor Guingona called for nominations for the Office of Mayor. Councilmember Gomez nominated Councilmember Carol Klatt for Mayor.

Mayor Guingona asked if there were any other nominations for the Office of Mayor. Hearing none, Mayor Guingona asked for a motion and second to close the nominations.

It was moved by Councilmember Torres, seconded by Councilmember Gomez and carried to close the nominations.

It was moved by Councilmember Gomez, seconded by Councilmember Torres and carried by unanimous roll call vote to appoint Councilmember Klatt to serve as Mayor of the City of Daly City for the ensuing year.

CITY OF DALY CITY
MINUTES – SPECIAL MEETING - CITY COUNCIL
DECEMBER 6, 2010

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REORGANIZATION OF CITY COUNCIL: Continued

The City Council expressed their appreciation to Councilmember Guingona for serving as Mayor this past year.

Mayor Klatt thanked her colleagues for their confidence in her and stated she will do her best to serve everyone.

Office of Vice Mayor

Mayor Klatt called for nominations for the Office of Vice-Mayor. Councilmember Guingona nominated Councilmember Sal Torres.

Mayor Klatt asked if there were any other nominations for the Office of Vice-Mayor. Hearing none, Mayor Klatt asked for a motion and second to close the nominations.

It was moved by Councilmember Guingona, seconded by Councilmember Torres and carried to close the nominations.

It was moved by Councilmember Guingona, seconded by Councilmember Canepa and carried by unanimous roll call vote to appoint Councilmember Torres to serve as Vice-Mayor of the City of Daly City for the ensuing year.

REMARKS:

Mayor Klatt thanked everyone for attending and also thanked Georgette Sarles and the Daly City/Colma Chamber of Commerce and First National Bank of Northern California for the congratulatory flowers.

Mayor Klatt extended an invitation to all present to remain for cake and coffee in the rotunda.

ADJOURNMENT:

It was moved by Councilmember Guingona, seconded by Councilmember Gomez and carried to adjourn the meeting at 7:42 P.M.

City Clerk

Approved as submitted, this _____

day of _____, 2011.

Mayor



City Council Agenda Report

Item # _____

Meeting Date: January 10, 2011

Subject: Amend Traffic Regulations

Recommended Action

Recommend the City Council amend traffic regulations to install a Stop sign on Whittier Street at Frankfort Street.

Background

On December 9, 2010, the City's Traffic Safety Committee met and reviewed various requests for traffic improvements, signage and pavement markings, and recommended to the City Manager amending the aforementioned traffic regulation.

Discussion

The Stop sign is recommended due to the poor vertical alignment of the Whittier Street as it intersects Frankfort Street, limiting the sight visibility at the intersection. (TSR 11-32)

Fiscal Impact

The proposed signs and/or markings will be funded from the approved operating budget of the Public Works Department, Street Maintenance Division.

Summary/Conclusion

Recommend the City Council amend the traffic regulations to install a Stop sign on Whittier Street at Frankfort Street.

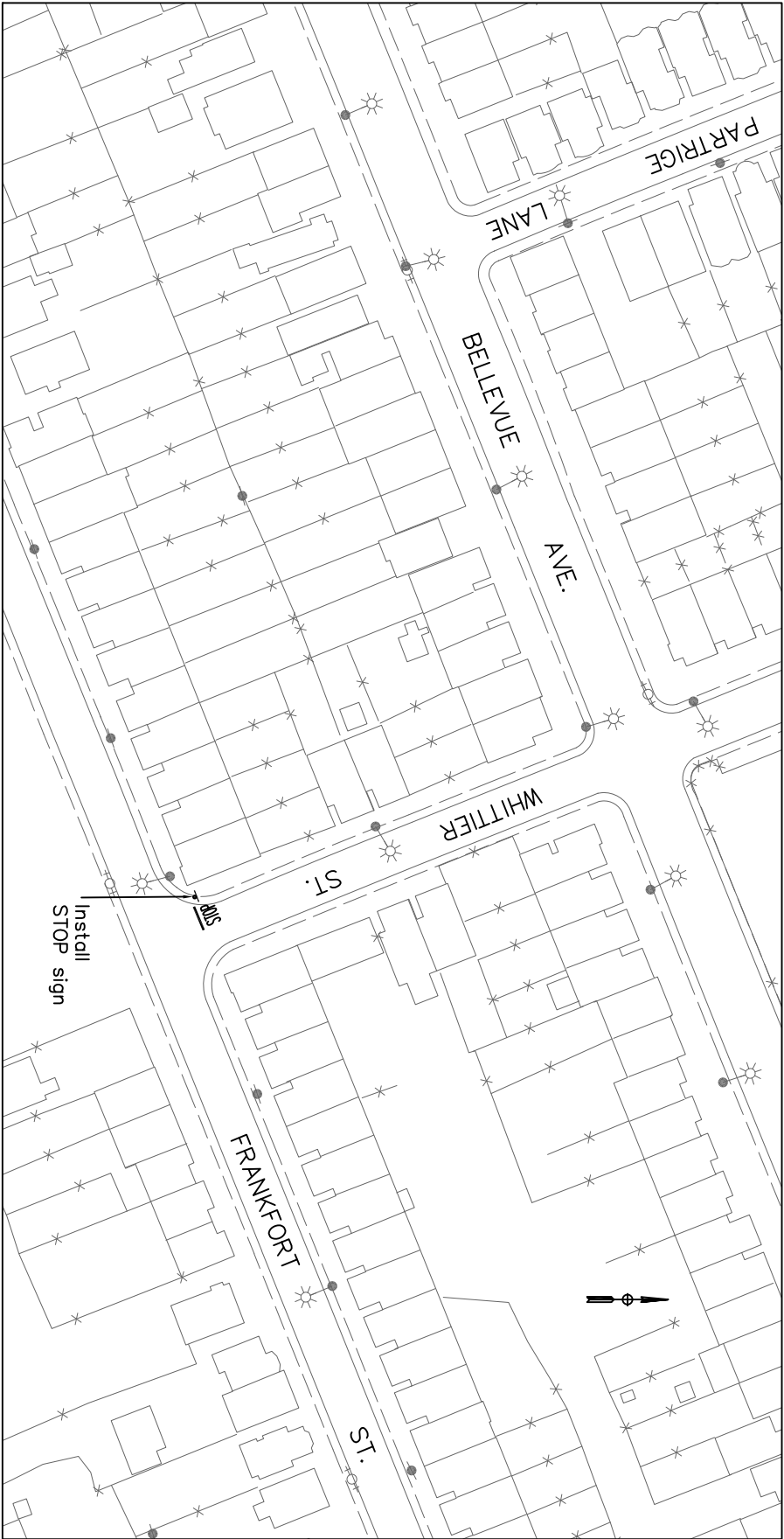
Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

Shirley Chan
Traffic Engineer

John L. Fuller
Director of Public Works

Attachment: Traffic Improvements Location Map



THE CITY OF DALY CITY
CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

TRAFFIC IMPROVEMENTS
Frankfort St./Whittier St.

DRAWN	SCY	DATE 12/10	APPROVED	CITY ENGINEER
DESIGNED	JLF	SIGN. NTS		TSR 11-32
ISSUED	SCY	SHEET NO.	SHEET NO. 1 OF 1	ISSUED NAME
				RE.



City Council Agenda Report

Item # _____

Meeting Date: January 10, 2011

Subject: Notice of Completion for Gellert Boulevard, 87th Street and Bellevue Avenue Rehabilitation Project

Recommended Action

Staff recommends that the City Council accept the improvements completed in compliance with the construction contract for the Gellert Boulevard, 87th Street and Bellevue Avenue Rehabilitation project.

Background

The Base Bid (Gellert Boulevard from Hickey Boulevard to Serramonte Boulevard), Add Alternate I (87th Street from Junipero Serra Boulevard to Sullivan Avenue), and Add Alternate 2 (Bellevue Avenue from Pope Street to South Hill Boulevard) included asphalt concrete (AC) repair and AC overlay of approximately 0.6 miles of City streets as shown on the attached plan.

The streets overlaid and repaired were selected by an evaluation utilizing the City's Pavement Management Program. Recommendations from the Street Maintenance Division, fund availability and coordination with other planned projects of the City and utility companies to avoid immediate excavation in the newly rehabilitated street pavement.

The City was allocated a maximum of \$1,707,511 in State Proposition 1B funds. With authorization from City Council on February 11, 2008, the City proposed to the State that the City's Proposition 1B funds be used to fund projects to repair the pavement on King Drive and Gellert Boulevard. Due to a very favorable bidding climate that developed after February 2008, the City realized a cost savings and was able to include additional streets in the resurfacing projects utilizing Proposition 1B funds.

Discussion

Granite Construction Company of Watsonville, California, has completed all improvements required by the construction contract documents for a total amount of \$967,495.88. The original contract award was for \$892,415.30 and net change order in the amount of \$74,727.03 was issued to cover the cost of additional grinding and paving of Hickey Boulevard and Gellert Boulevard, and Serramonte Boulevard and Gellert Boulevard intersections, and removal of an unknown concrete cap from an AT&T utility trench along Gellert Boulevard.

Fiscal Impact

The contract was completed in the total amount of \$967,495.88 with funds available in the Capital Improvement Project account 17-312-687-4509

**Notice of Completion for Gellert Boulevard, 87th Street and
Bellevue Avenue Rehabilitation Project**
Meeting Date: January 10, 2011
Page 2 of 2

Summary/Conclusion

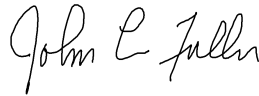
The contractor's work is now complete and acceptable for City maintenance. Staff recommends that the City Council accept the completed improvements for the City's maintenance and use.

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,



Ravi Gehani
Acting City Engineer



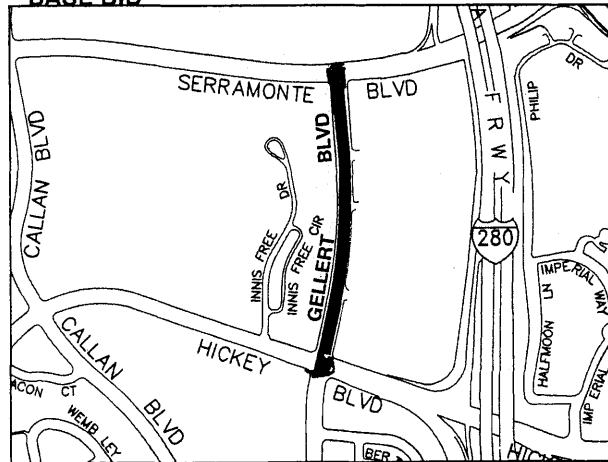
John L. Fuller
Director of Public Works

Attachments: Location Map
Notice of Completion and Resolution

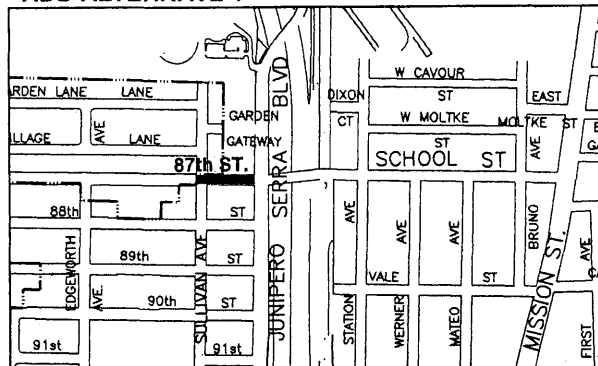
CITY OF DALY CITY
SAN MATEO COUNTY, CALIFORNIA

GELLERT BOULEVARD, 87TH STREET AND BELLEVUE AVENUE REHABILITATION

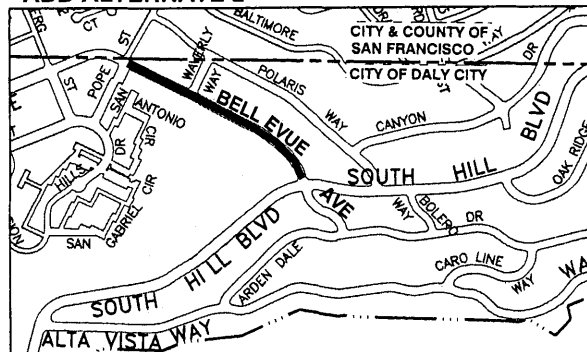
BASE BID



ADD ALTERNATE 1



ADD ALTERNATE 2



RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

OFFICE OF THE CITY CLERK
CITY OF DALY CITY
333 - 90th Street
Daly City, California 94015

Notice of Completion

NOTICE IS HEREBY GIVEN as follows:

1. The date of completion of the work of improvement is: January 10, 2011
2. The owner of the work of improvements is: City of Daly City, a Municipal Corporation.
3. The address of the owner of the work of improvement is: City Hall
333 - 90th Street
Daly City, California 94015
4. The nature of the owner's interest or estate is: In fee.
5. The work of improvement is located in Daly City, California, and is particularly described as follows:

**GELLERT BOULEVARD, 87TH STREET AND BELLEVUE AVENUE
REHABILITATION**

6. The name of the original contractor for the work of improvement is:

Granite Construction Co.
P.O. Box 50085
Watsonville, CA 95077

Dated: _____

The undersigned, being duly sworn, says: That he is the owner of the aforesaid interest or estate in the property described in the foregoing notice; that he has read the same, and knows the contents thereof, and that the facts stated therein are true.

CITY OF DALY CITY, OWNER

Ravi Gehani, Acting City Engineer

STATE OF CALIFORNIA,

COUNTY OF _____ } ss.

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20 _____,

by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature _____

Name (Typed or Printed)
Notary Public in and for said County and State

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DALY CITY ACCEPTING
COMPLETION OF CERTAIN PROJECT IN THE
DEPARTMENT OF PUBLIC WORKS

(GELLERT BOULEVARD, 87TH STREET AND BELLEVUE AVENUE REHABILITATION)

A. The Project Manager has advised that the project set forth hereinafter has been completed in accordance with the terms of the contract with the City of Daly City and **GRANITE CONTRUCTION COMPANY**, a California Corporation.

B. The City Council of the City of Daly City desires to acknowledge the completion of such project so that notice of completion may be given.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Daly City that pursuant to the above, the City of Daly City does hereby accept as complete the following described project:

**GELLERT BOULEVARD, 87TH STREET AND BELLEVUE AVENUE
REHABILITATION**

BE IT FURTHER RESOLVED by the City Council of the City of Daly City that said project be, and it is hereby accepted as complete, and at the expiration of thirty-five (35) days from this date, final payment in connection with this project be, and it is hereby authorized, provided that all statutory liens, claims and withholds are satisfied pursuant to law.

I hereby certify the foregoing to be a true copy of a Resolution adopted by the City Council of Daly City, California, at a regular meeting thereof held on the _____ day of _____, 20____, by the following vote of the members thereof:

AYES, and in favor thereof, Councilmen: _____

NOES, Councilmen: _____

ABSENT, Councilmen: _____

CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

MAYOR OF THE CITY OF DALY CITY



City Council Agenda Report

Item # _____

Meeting Date: January 10, 2011

Subject: Approval of Final Map and Improvement Agreement for Mission Street Condominiums (SUB07-1) – 7555 Mission Street

Recommended Action

Staff recommends that the City Council approve the Final Map, accept the public utility easement offered for dedication and authorize the City Manager to execute the Subdivision Improvement Agreement and Storm Water Maintenance Agreement for the Mission Street Condominium Subdivision, subject to the City Attorney's approval of the Agreements, Performance Securities, and Covenant, Conditions and Restrictions (CC&R) for this subdivision submitted by the subdivider.

Background

The Mission Street Condominiums creates thirty-six (36) condominium units over podium parking on a property located at the northeast corner of Mission Street and A Street as shown on the attached map.

Habitat for Humanity of Greater San Francisco has prepared a Final Subdivision Map for the proposed Mission Street Condominium subdivision for City Council approval.

Discussion

The final map is substantially in compliance with the tentative map approved by the City Council on March 10, 2008. The final map includes an offer of dedication of a public utility easement across a portion of the Mission Street property frontage. The common improvements including utility service connections, drainage facilities, retaining walls, common areas and landscaping will be maintained by the Homeowners Association as outlined in the Covenant, Conditions and Restrictions (CC&R) for the subdivision.

Habitat for Humanity of Greater San Francisco requests approval of the final map before completing all public improvements required by the conditions of approval of the tentative map and wishes to enter into an agreement for the completion of the improvements within two (2) years. The conditions of approval also require the subdivider to install permanent features that prevent the pollution of storm water runoff from project site and to enter into an agreement for the operation, maintenance and preservation of the storm water treatment measures.

Fiscal Impact

The subdivider has paid the fees and charges required for the improvement plan reviews and inspections. The water main system improvements constructed to serve the project will be owned and maintained by the California Water Service Company. Improvements within the Mission Street right-of-way are under the jurisdiction of the State Department of Transportation (Caltrans) and improvements within the A Street right-of-way are under the jurisdiction of the County of San

**Approval of Final Map and Improvement Agreement for
Mission Street Condominiums (SUB07-1) – 7555 Mission Street
Meeting Date: January 10, 2011
Page 2 of 2**

Mateo. The City will accept the water system abandonments, sewer system abandonments and connections, and improvements within 1st Avenue upon completion of the subdivision improvements.

Summary/Conclusion

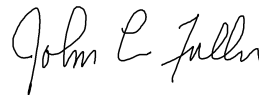
Staff recommends that the City Council approve the Final Map, accept the public utility easement offered for dedication and authorize the City Manager to execute the Subdivision Improvement Agreement and Storm Water Maintenance Agreement for the Mission Street Condominium Subdivision, subject to the City Attorney's approval of the Agreements, Performance Securities, and Covenant, Conditions and Restrictions (CC&R) for this subdivision submitted by the subdivider.

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,



Robert Ovadia
Senior Civil Engineer



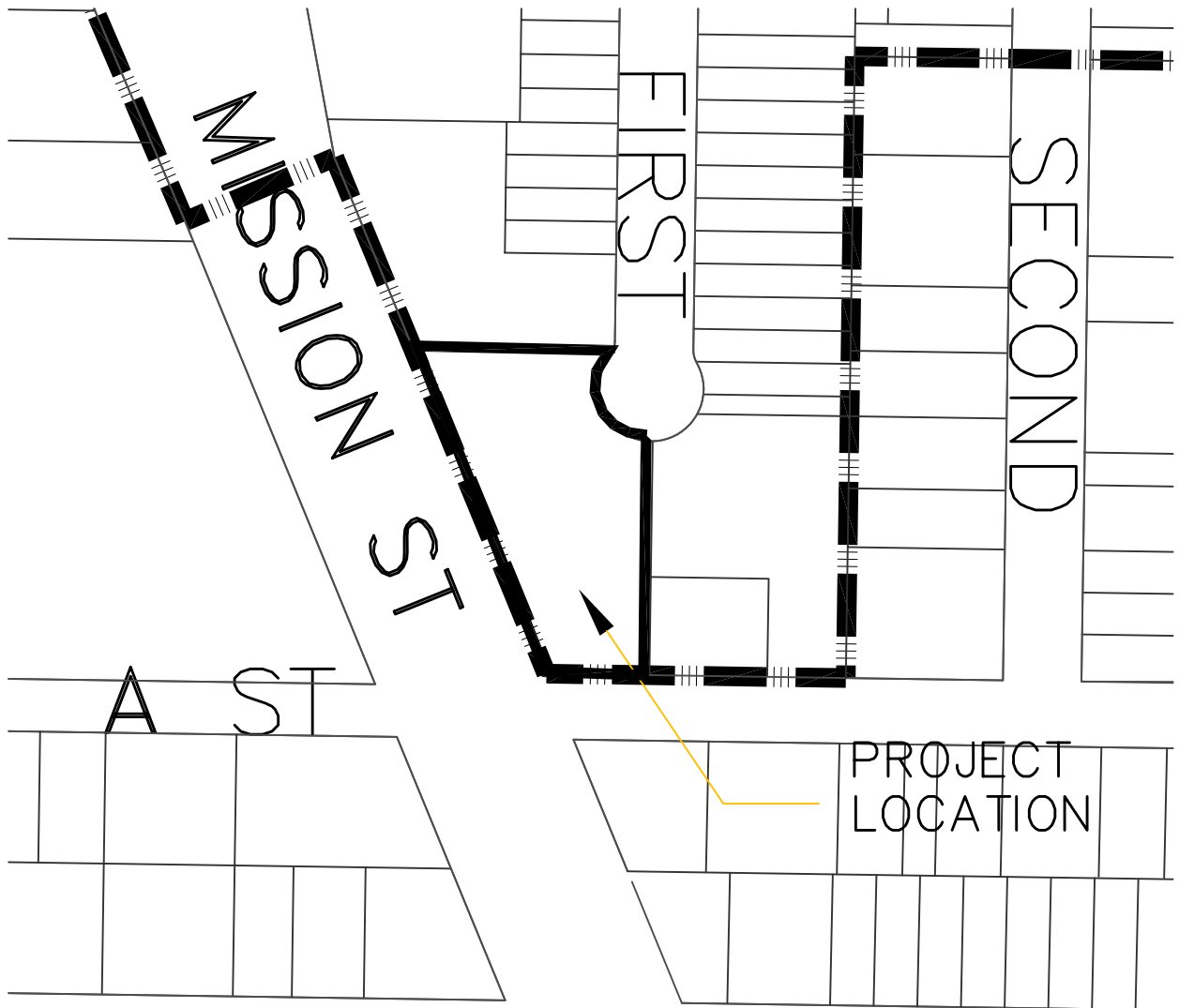
John L. Fuller
Director of Public Works

Attachments: Location Map
Subdivision Agreement
Storm Water Maintenance Agreement

CITY OF DALY CITY
SAN MATEO COUNTY, CALIFORNIA

LOCATION MAP FOR

**MISSION STREET CONDOMINIUMS (SUB07-1)
7555 MISSION STREET**



CITY OF DALY CITY
SUBDIVISION IMPROVEMENT AGREEMENT

DATE OF AGREEMENT: _____

NAME OF SUBDIVIDER: Habitat for Humanity Greater San Francisco
(hereinafter "Subdivider")

NAME OF SUBDIVISION: Mission Street Condominiums
(hereinafter "Subdivision")

SUBDIVISION ADDRESS: 7555 Mission Street, Daly City, CA 94014

TENTATIVE MAP EXPIRATION DATE: March 18, 2012

ESTIMATED TOTAL COST OF IMPROVEMENTS: \$ 191,500

THIS AGREEMENT is made and entered into by and between the City of Daly City, a municipal corporation of the State of California, hereinafter referred to as "City," and Subdivider.

RECITALS

A. Subdivider has presented to the City for approval and recordation, a final subdivision map of a proposed subdivision pursuant to the provisions of the *Subdivision Map Act* of the State of California and the City's ordinances and regulations relating to the filing, approval and recordation of the subdivision maps. The Subdivision Map Act and the City's ordinances and regulations relating to the filing, approval and recordation of subdivision maps are collectively referred to in this agreement as the "Subdivision Laws.

B. A tentative map of the subdivision has been approved by the Daly City City Council, subject to the Subdivision Law and to the requirements and conditions of approval of the tentative map for this [SIC] Subdivision, and the *City of Daly City Department of Public Works, Department of Water and Waste Water Resources, and the Fire Department General Conditions of Approval: Subdivisions*, all of which are on file in the office of the City Clerk and is incorporated into this agreement by reference.

C. The Subdivision Laws establish as a condition precedent to the approval of a final map that Subdivider must have complied with the conditions of approval of the tentative map for this Subdivision and must have either (1) completed, in compliance with City General Conditions Standard Specifications and Drawings (current edition) as well as the *City of Daly City Department of Public Works, Department of Water and Waste Water Resources, and the Fire Department General Conditions of Approval: Subdivisions*, and all land development work required by the Subdivision Laws, or (2) have entered into a secured agreement with the City to complete the improvements and land development within a period of time specified by the City.

D. In consideration of approval of a final map of the subdivision by the City Council, Subdivider desires to enter into this agreement, whereby Subdivider promises to install and complete, at Subdivider's own expense, all the public improvement work required by City in connection with the proposed subdivision. Subdivider has secured this agreement by improvement security required by the Subdivision Laws and approved by the City Attorney.

E. Complete "Improvements Plans" for the construction, installation and completion of the improvements have been prepared by Subdivider and approved by the City Engineer. The Improvement Plans for the subdivision referenced previously in this agreement are on file in the City's Department of Public Works and are incorporated into this agreement by this reference. All references in this agreement to the improvement Plans shall include reference to any specifications for the improvements as approved by the City and in conformance with the City's General Conditions, Standard Specifications and Drawings (current edition at the time of approval of the Final Map) and the *City of Daly City Department of Public Works, Department of Water and Waste Water Resources, and the Fire Department General Conditions of Approval: Subdivisions*.

F. An estimate of the cost of construction of the public improvements and performing land development work in connection with the improvements according to the Improvement Plans has been made and has been approved by the City. The estimated amount is stated on Page 1 of this agreement.

G. The City has adopted standards for the construction and installation of improvements within the City [the City's General Conditions, Standard Specifications and Drawings (current edition at the time of approval of the Final Map) and the *City of Daly City Department of Public Works, Department of Water and Waste Water Resources, and the Fire Department General Conditions of Approval: Subdivisions*. The Improvement Plans have been prepared in conformance with the City standards.

H. All public improvement monuments as specified on the final map and improvement plan are to be completed prior to final formal acceptance by the City Council. Individual property monuments must be installed within one year from final Council acceptance of said subdivision.

I. Subdivider recognizes that by approval of the final map for Subdivision, City has conferred substantial rights upon Subdivider, including the right to sell, lease, or finance lots within the Subdivision. As a result, City will be damaged to the extent of the cost of installation of the improvements by Subdivider's failure to perform its obligations to commence construction of the improvements by the time established in this agreement. The City shall be entitled to all remedies available to it pursuant to this agreement and law in the event of a default by Subdivider. It is specifically recognized that the determination of whether a reversion to acreage or rescission of the Subdivision Page 2 constitutes an adequate remedy for default by the Subdivider shall be within the sole discretion of City.

NOW, THEREFORE, in consideration of the approval and recordation by the City Council of the final map of the Subdivision, Subdivider and City agree as follows:

1. Subdivider's Obligation to Construct Improvements. Subdivider shall:

a. Comply with all the requirements and conditions of the tentative subdivision map for this Subdivision and any amendments thereto, and with the provisions of the Subdivision Laws as well as City's General Conditions, Standard Specifications and Drawings (current edition at the time of approval of the Final Map) and the *City of Daly City Department of Public Works, Department of Water and Waste Water Resources, and the Fire Department General Conditions of Approval: Subdivisions*.

b. Complete, at Subdivider's own expense, all the public improvement work required by conditions of the tentative subdivision map for this Subdivision and any amendments thereto, and with the provisions of the City's General Conditions, Standard Specifications and Drawings (current edition at the time of approval of the Final Map) and the *City of Daly City Department of Public Works, Department of Water and Waste Water Resources, and the Fire Department General Conditions of Approval: Subdivisions*, and in conformance with approved Improvement Plans within two (2) years following the date of this agreement; provided however, that the improvements shall not be deemed to be completed until accepted by City Council. Such improvements shall be completed to the satisfaction of the City Engineer and shall include the following: Site grading, erosion and sediment controls, retaining walls required to complete site grading and drainage improvements.

c. Curb, gutter, sidewalk, driveways, street pavement, pavement markings and traffic control signs.

d. Underground electric, gas, telephone and communications service laterals and main improvements to serve the property as required by Utility Agreement(s).

e. Off-Site Utility Undergrounding: Pursuant to the Subdivision Conditions of Approval, and as agreed by the Subdivider, the Subdivider shall comply with all components of the General Conditions of Approval for Subdivisions.

f. Survey monuments and lot corner markers.

g. Subdivider shall also perform all other work as set forth in the Conditions of Approval for the Tentative Map, as relating to the Subdivision.

h. Furnish the necessary materials for the completion of the public improvements in conformity with the Improvement Plans, or with any changes required or ordered by the City Engineer, which in his or her opinion are necessary or required to complete the work.

i. Acquire and dedicate all rights-of-way, easements, and other interests in real property for construction and installation of the public improvements, or pay the costs of acquisition incurred by City. All rights-of-way, easements, and other interests in real property shall be free and clear of liens and encumbrances. The Subdivider's obligation with regard to acquisition by City of off-site rights-of-way, easements, and other interests in real property shall be subject to a separate agreement between Subdivider and City. Subdivider shall also be

responsible for obtaining any public or private sanitary sewer, drainage, and/or utility easements or authorization to accommodate the Subdivision.

j. Commence construction of the improvements by the time established in Section 22 of the agreement and complete the improvements by the deadline stated in Paragraph 1(b) above, unless a time extension is granted by the City as authorized in Section 22.

k. Install all subdivision public improvement monuments required by law prior to formal final acceptance of the public improvements by the City. Individual property monuments shall be installed within one year of said acceptance. All of said work is to be done at the places, with the materials, in the manner, and at the grades as shown upon the plans and specifications for this Subdivision and its grading plan(s), heretofore approved by the City Engineer and which are now on file in his office, and to the satisfaction of said City Engineer.

l. [Intentionally deleted.]

m. Subdivider shall implement all necessary measures to protect and preserve public safety, convenience, peace and welfare, and to minimize adverse impact on the surroundings. The Subdivider shall conduct his operations in such a manner as to avoid damage to adjacent property. The site shall be kept neat and clean at all times. The work site shall be secured at the conclusion of each work day. All work debris on the public streets and adjoining properties shall be cleaned at the end of each workday.

n. All costs and obligations associated with the work required by this agreement are the costs and obligations of the Subdivider. The City shall assume no costs whatsoever, except if specifically agreed to in the Conditions of Approval. City shall retain the right to perform any work as may be necessary due to Subdivider's failure to complete the same in a timely manner. In the event of failure of the Subdivider to perform all obligations to the satisfaction of the City, the City, after ten (10) days written notice to the Subdivider, may complete the required work and may charge the Subdivider for all costs incurred.

2. Acquisition and Dedication of Easements or Rights-of-Way. [Not applicable.]

If any of the public improvements and land use development work contemplated by this Agreement is to be constructed or installed on land not owned by City or Subdivider, no construction or installation shall be commenced before:

a. The offer of dedication to City of appropriate rights-of-way, easements or other interests in real property, and appropriate authorization from property owner to allow construction or installation of the improvements or work, or

b. The dedication to, and acceptance by, the City of appropriate rights-of-way, easements or other interests in real property, as determined by the City Engineer, or

c. The issuance by a court of competent jurisdiction pursuant to the State Eminent Domain Law of an order of possession. Subdivider shall comply in all respects with the order of possession.

Subdivider shall acquire and dedicate, or pay all costs of including but not limited to the legal fees, court fees, appraisal fees and all costs associated with the acquisition of fee title interest in land, rights-of-way, easements and other interests in real property for construction or installation of the public improvements, free and clear of all liens and encumbrances. The Subdivider's obligations with regard to acquisition by City of off-site rights-of-way, easements and other interests in real property shall be subject to a separate agreement between Subdivider and City, if necessary. Subdivider shall also be responsible for obtaining any public or private drainage easements or authorization to accommodate the Subdivision.

Nothing in this Section 2 shall be construed as authorizing or granting and extension of time to Subdivider.

3. Security. Subdivider shall at all times guarantee Subdivider's performance by furnishing to City and maintaining good and sufficient security as required by the Subdivision Laws on forms approved by City for the purposes and in the amounts as follows:

a. To assure faithful performances of this agreement in regard to said improvements in an amount of 100% of the estimated cost of the improvements to be constructed by Subdivider; and

b. To secure payment to any contractor, subcontractor, person renting equipment, or furnishing labor and materials for the improvements required to be constructed and installed by Subdivider pursuant to this agreement in the additional amount of 100% of the estimated cost of the improvement; and

c. To guarantee or warranty the work done pursuant to this agreement for a period of one (1) year following acceptance thereof by City against any defective work or labor done or defective materials furnished in the additional amount of 25% of the estimated cost of said improvements; and

d. Subdivider shall also furnish to City good and sufficient security in the amount of 100% of the estimated cost of providing "Construction Record Plan" photo mylar reproducible and/or CADD Diskette in a form acceptable to the City Engineer.

e. Form of Security: The City may accept performance, payment and/or improvement security in the form of the bonds or other alternate forms as per Section 66499 et. seq. of the Subdivision Map Act (Government Code) to and including the following:

(i) A Set Aside Letter of Credit from a construction lender, in a form acceptable to the City Attorney, and shall be in the minimum amount of the estimated cost of the performance, payment and/or improvements, permitted to be secured by methods other than cash. The Set Aside Letter of Credit must require the lender to disburse no funds without prior written permission from the City and no more than 50% of the total amount may be disbursed until the City accepts all improvements as complete and all liens or judgments filed against the improvements are satisfied or released.

(ii) Alternately, the Subdivider may provide a Certificate of Deposit in the minimum amount of the estimated cost of the performance, payment and/or improvements

permitted to be secured by methods other than cash. The said Certificate of Deposit, shall not be released until after the City accepts all improvements as complete and until after all liens or judgments filed against the improvements are satisfied or released.

(iii) The subdivider may also make a further cash deposit, rather than submit a Set Aside Letter, or submit a Certificate of Deposit in an amount equal to 100% of the total estimated cost of the performance, payment and/or improvements, as defined in this Agreement as security for the faithful performance of this Agreement.

(iv) The Certificate of Deposit and/or the Set Aside Letter of Credit, if permitted, shall be in a form approved by the City Attorney.

(v) The subdivider may substitute alternate Improvement Securities at any time with the City's prior written approval.

(vi) Any changes, alterations, or additions to the improvement plans and specifications or to the improvements, not exceeding 10% of the original estimated cost of the improvement, which are mutually agreed upon by City and Subdivider, shall not relieve the cash deposit or improvement security given for faithful performance of this agreement. In the event such changes, alterations, or additions exceed 10% of the original estimated cost of the improvement, Subdivider shall provide improvement security for faithful performance as required by this agreement for 100% of the total estimated cost of the improvement as changed, altered, or amended.

(vii) The securities required by this agreement shall be kept on file with the City Clerk. The terms of the security documents are incorporated into this agreement by this reference. If any security is replaced by another approved security, the replacement shall: (a) comply with all the requirements for security in this agreement, (b) be provided to the City Engineer to be filed with the City Clerk, and upon filing, (c) be deemed to have been made a part of and incorporated into this agreement. Upon provisions of a replacement security with the City Engineer and filing of a replacement security with the City Clerk, the former security may be released.

4. Alterations to Improvement Plans.

a. Any changes, alteration or additions to the Improvement Plans, not exceeding 10% of the original estimated cost of the improvement, which are mutually agreed upon by the City and Subdivider shall not relieve the improvement security given for faithful performance of this agreement. In the event such changes, alterations, or additions, exceed 10% of the original estimated cost of the improvements, Subdivider shall provide improvement security for faithful performance as required by Section 3 of the agreement for 100% of the total estimated cost of the improvement as changed, altered, or amended, minus any completed partial releases allowed by Section 6 of this agreement.

b. The Subdivider shall construct the improvements in accordance with City standards in effect at the time of adoption of the resolution of approval. City reserves the right to modify the standards applicable to the Subdivision and this agreement when necessary to protect the public safety or welfare or comply with applicable Federal or State law or City zoning

ordinances. If Subdivider requests and is granted an extension of time for completion of the improvement, City may apply the standards in effect at the time of extension.

5. Inspection. Subdivider shall at all times maintain proper facilities and safe access for inspection of the public improvements by City inspectors and to the shops wherein any work is in preparation. Upon completion of the work the Subdivider may request a final inspection by the City Engineer, or the City Engineer's authorized representative. If the City Engineer, or the designated representative, determines that the work had been completed in accordance with this agreement, then the City Engineer shall certify the completion of the public improvement to the City Council. No improvement shall be finally accepted by the City Council unless all aspects of the work have been completed in accordance with the Improvement Plans. When applicable law requires an inspection to be made by the City at a particular stage of the work of constructing and installing such improvements, City shall be given timely notice of Subdivider's readiness for such inspection and Subdivider shall not proceed with additional work until the inspection has been made and the work approved. Subdivider shall bear all costs of inspection and certification. No improvements shall be deemed completed until accepted by the City Council pursuant to Section 17 herein.

6. Release of Securities. The securities required by this agreement shall be released as follows:

a. Security given for faithful performance of any act, obligation, work or agreement shall be released upon the final completion and acceptance of the act or work, subject to the provisions of subsection (b) hereof.

b. The City Engineer may release a portion of the security given for faithful performance of improvement work as the improvement progresses upon application thereof by the Subdivider, provided, however, that no such release shall be for an amount less than 25% of the total improvement security given for faithful performance of the improvement work and that the security shall not be reduced to an amount less than 50% of the total improvement security given for faithful performance until final completion and acceptance of the public improvements. In no event shall the City Engineer authorize a release of the improvement security which would reduce the security to an amount below .125% of that required to guarantee the completion of the improvement work and any other obligation imposed by this agreement.

c. Security given to secure payment to the contractor, subcontractors, and to persons furnishing labor, materials or equipment shall, at six (6) months after the completion and acceptance of the Work, be reduced to an amount equal to no less than 125% of the total claimed by all claimants for whom liens have been filed and of which notice has been given to the City, plus an amount reasonably determined by the City Engineer to be required to assure the performance of any other obligations secured by the security. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given.

d. No security given for the guarantee or warranty for work shall be released until the expiration of the warranty period and until any claims filed during the warranty period have been settled. As provided in Paragraph 10, the warranty period shall not commence until final acceptance of all the work and improvements by the City Council.

e. The City may retain from any security released, an amount to sufficiently cover costs and reasonable expenses and fees, including reasonable attorney's fees.

7. Injury to Public Improvements, Public Property or Public Utilities Facilities.

Subdivider shall replace or repair, or have replaced or repaired, as the case may be, all public improvements, public utility facilities and surveying or subdivision monuments which are destroyed or damaged as a result of any work under this agreement. Subdivider shall bear the entire cost of replacement or repairs of any and all public or public utility property damaged or destroyed by reason of any work done under this agreement, whether such property is owned by the United States or any agency thereof, of the State of California, or any agency or political subdivision thereof, or by the City or any public or private utility corporation or by any combination of such owners. Any repair or replacement shall be to the satisfaction, and subject to the approval, of the City Engineer.

Furthermore, until such time as the improvements are accepted by City, Subdivider shall be responsible for, and bear the risk of loss to, any of the improvements constructed or installed. Until such time as all improvements required by this agreement are fully completed and accepted by City, Subdivider shall be responsible for the care, maintenance of, and any damage to such improvements. City shall not, nor shall any officer or employee thereof, be liable or responsible for any accident, loss or damage, regardless of cause, happening or occurring to the work or improvement specified in this agreement prior to the completion and acceptance of the work or improvements. All such risks shall be the responsibility of and are hereby assumed by Subdivider.

8. Permits and Utility Deposits. Subdivider shall, at Subdivider's expense, obtain all necessary permits and licenses for the construction and installation of the improvements, give all necessary notices and pay all fees and taxes required by law.

Prior to the commencement of any work related to this Subdivision, the Subdivider shall provide the City with written statements issued by each public utility corporation, telecommunications provider, or public service agency involved to the effect that the Subdivider has made all deposits legally required by such public utility corporation, telecommunications provider, or public service agency for the connection of any and all public utilities to be supplied by such corporation or agency for the Subdivision.

9. Default of Subdivider.

a. The following shall constitute the default of Subdivider:

- (1) Subdivider's failure to timely commence construction of Improvements under this agreement, and the same is not cured within ten (10) days after written notice from the City;
- (2) Subdivider's failure to timely complete construction of the improvements, and the same is not cured within thirty (30) days after written notice from the City ;

- (3) Subdivider's failure to timely cure any defect in the improvements within thirty (30) days after written notice from the City, or if such defect cannot reasonably be cured within a 30-day period, failure to cure within such longer period as may be reasonable;
- (4) [Intentionally deleted.];
- (5) Subdivider's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which Subdivider fails to discharge within 30 days.
- (6) The commencement of a foreclosure action against the subdivision or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure; or
- (7) Subdivider's failure to perform any other obligation under this agreement within thirty (30) days after written notice from the City, or if such failure cannot reasonably be cured within a 30-day period, failure to cure within such longer period as may be reasonable .

b. The City reserves to itself all remedies available to it at law or in equity for breach of Subdivider's obligations under this agreement. The City shall have the right, subject to this Section and Section 28, to draw upon or utilize the appropriate security to mitigate the City's damages in the event of default of Subdivider. The right of the City to draw upon or utilize the security is additional to and not in lieu of any other remedy available to City. It is specifically recognized that the estimated costs and security amounts may not reflect the actual cost of construction or installation of the improvements and, therefore, City's damages for Subdivider's default shall be measured by the costs of completing the required improvements. The sums provided by the improvement security may be used by City for the completion of the public improvements in accordance with the improvement plans and specifications contained herein.

In the event of Subdivider's default under this agreement, Subdivider authorizes City to perform such obligation thirty (30) days after mailing written notice of default to Subdivider and Subdivider's surety, and agrees to pay the entire cost of such performance by the City.

City may take over the work and prosecute the same to completion, by contract or by any other method City may deem advisable, for the account and at the expense of Subdivider, and Subdivider's surety shall be liable to City for any excess cost of damages occasioned City thereby. In such event, City without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plants and other property belonging to Subdivider as may be on the site of the work and necessary for performance of the work.

c. Failure of Subdivider to comply with the terms of this agreement shall constitute consent to the filing by the City of a notice of violation against all the lots in the Subdivision, or to rescind the approval or otherwise revert the Subdivision to acreage. The remedy provided by this subsection c is addition to, and not in lieu of, other remedies available

to City. Subdivider agrees that the choice of remedy or remedies for Subdivider's breach shall be in the discretion of City.

d. In the event that Subdivider fails to perform any obligation hereunder, Subdivider agrees to pay all costs and expenses incurred by City in securing performance of such obligations, including but not limited to fees and charges of architects, engineers, attorneys, other professionals, and court costs.

e. The failure of City to take enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of Subdivider.

10. Warranty. Subdivider shall guarantee or warranty the work done pursuant to this agreement for a period of one (1) year after final formal acceptance of this subdivision by the City Council against any defective work or labor done or defective materials furnished. If within the warranty period any work or improvement or part of any work or improvement done, furnished, installed or constructed by Subdivider fails to fulfill any of the requirements of this agreement or the improvement plans or specifications referred to herein, Subdivider shall without delay and without cost to the City repair or replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or structure. Should Subdivider fail to act promptly or in accordance with this requirement, Subdivider hereby authorizes City, at City's option to perform the work thirty (30) days after mailing written notice of default to Subdivider and to Subdivider's surety, and agrees to pay the costs of such work by City. Should the City determine that an urgency requires repairs or replacement to be made before Subdivider can be notified, City may, in its sole discretion, make the necessary repairs or replacement or perform the necessary, work and Subdivider shall pay to City cost of such repairs.

Warranty shall be covered by a warranty bond as specified in Section 26, below.

11. Subdivider Not Agent to City. Neither Subdivider nor Subdivider's agents, contractors, or subcontractors are or shall be considered to be agents of the City in connection with the performance of Subdivider's obligations under this agreement.

12. Environmental Warranty. Prior to the acceptance of any dedications or improvements by City, Subdivider shall certify and warrant that, to Subdivider's knowledge neither the property to be dedicated nor Subdivider are in violation of any environmental law and neither the property to be dedicated nor Subdivider are subject to any existing, pending, or threatened investigation by any federal, state or local government authority under or in connection with environmental law. Neither Subdivider nor any contractor, agent or employee of Subdivider will use, generate, manufacture, produce, or release, on, under, or about the property to be dedicated, any hazardous substance except in compliance with all applicable environmental laws. To Subdivider's knowledge, Subdivider has not caused or permitted the release of, and has no knowledge of the release or presence of, any hazardous substance on the property to be dedicated or migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated. To Subdivider's knowledge, Subdivider's prior and present use of property to be dedicated has not resulted in the release of

any hazardous substance on the property to be dedicated. Subdivider shall give prompt written notice to City at the address set forth herein of:

a. Any proceeding or investigation by any federal, state, or local government authority with respect to the presence of any hazardous substance on the property to be dedicated or the migration thereof or to any other property adjacent to, or in the vicinity of, the property to be dedicated:

b. Any claims made or threatened by any third party against City of the property to be dedicated relating to any loss or injury resulting from any hazardous substance; and

c. Subdivider's discovery of any occurrence or condition on any property adjoining in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restriction on its ownership, occupancy, use of the purpose for which it is intended, transferability or suit under any environmental law.

13. Other Agreements. Nothing contained in this agreement shall preclude City from expending monies pursuant to agreements concurrently or previously executed between the parties, or from entering into agreements with other subdividers for the apportionment of costs of water and sewer mains, or other improvements pursuant to the provisions of the City ordinances providing therefore, nor shall anything in this agreement commit City to any such apportionment.

14. Subdivider's Obligation to Warn Public During Construction. Until final acceptance of the improvement, Subdivider shall give good and adequate warning to the public of each and every dangerous condition existent in said improvement, and will take reasonable actions to protect the public from such dangerous condition

15. Superintendence by Subdivider. Subdivider shall give personal superintendence to the work on said Subdivision and improvements, or have a competent foreman or superintendent, satisfactory to the City, on the work at all times during progress, with authority to act for the Subdivider on issues of safety, construction, erosion control, violations as to haul routes, dust control, noise or other general matters of public safety and the environment.

16. Vesting of Ownership. Upon formal final acceptance of the work by City and recordation of the Resolution of Acceptance of Public Improvement, ownership of the improvements constructed pursuant to this agreement shall vest in City.

17. Final Acceptance of Work. Acceptance of work on behalf of City shall be made by the City Council upon recommendation of the City Engineer after final completion and inspection of the improvements to be accepted. The City Council shall act upon the Engineer's recommendation within sixty (60) days from the date the City Engineer certifies that the work has been finally completed, as provided in Section 5. Such acceptance shall not constitute a waiver of defects by City.

18. Indemnity/Hold Harmless. Pursuant to Government Code Section 66474.9, and to no extent further than as provided by such statute, Subdivider agrees to protect, defend,

indemnify and hold harmless City, its officials, boards and commissions, and members thereof, agents and employees from any and all claims, demands, causes of action, liability, or loss of any sort, because of, or arising out of, acts or omissions of Subdivider, its agents, employees, contractors and subcontractors in the performance of this agreement, except to the extent such claims, demands, causes of action, liability, or loss arise out of the active negligence of the City, its officials, boards commissions, the members thereof, agents, and employees, including all claims, demands, causes of action, liability, or loss because of or arising out of, in whole or in part, the design or construction of the improvements constructed by Subdivider.

This indemnification and agreement to hold harmless shall extend to injuries to persons and damages or taking of property resulting from the design or construction of said Subdivision, and the public improvements as provided herein, and in addition, to adjacent property owners as a consequence of the diversion of waters from the design and construction of public drainage systems, streets and other public improvements. Acceptance by the City of the improvements shall not constitute an assumption by the City of any responsibility for any damage or taking covered by this Section. City shall not be responsible for the design or construction of the property to be dedicated or the improvements pursuant to the approved improvement plans or map, regardless of any negligent action or inaction taken by the City in approving the plans or map, unless the particular improvement design was specifically required by City over written objection by Subdivider submitted to the City Engineer before approval of the particular improvement design, which objection indicated that the particular improvement design was dangerous or defective and suggested an alternative safe and feasible design.

After acceptance of the improvements, the Subdivider shall remain obligated to eliminate any defect in design or dangerous condition caused by the design or construction defect; however, Subdivider shall not be responsible for routine maintenance. **Provisions of this paragraph shall remain in full force and effect for ten (10) years following the acceptance by the City of the improvements.** It is the intent of this section that Subdivider shall be responsible for all liability for design and construction of the improvements installed or work done pursuant to this agreement and that City shall not be liable for any negligence, nonfeasance, misfeasance or malfeasance in approving, reviewing, checking, or inspecting any work or construction. The improvement security shall not be required to cover the provisions of this Paragraph.

Subdivider shall reimburse the City for all reasonable costs and expenses (including but not limited to reasonable fees and charges of architects, engineers, attorneys and other professionals, and court costs) incurred by City in enforcing the provisions of this section.

19. Personal Nature of Subdivider's Obligation. All of Subdivider's obligation under this agreement are and shall remain the personal obligations of Subdivider notwithstanding a transfer of all or any part of the property within the Subdivision subject to this agreement, and Subdivider shall not be entitled to assign its obligation under this agreement to any transferee of all or any part of the property within the Subdivision or any other third party without the express written consent of the City.

20. Sale or Disposition of Subdivision. In the event of sale or other disposition of the subdivision, Subdivider may request a novation of this agreement and a substitution of security.

Upon approval of the novation and substitution of securities, the Subdivider may request a release or reduction of the securities required by this agreement. Nothing in the novation shall relieve the Subdivider of the obligations under Section 18 for the work or improvement done by Subdivider.

21. Time is of the Essence. Time is of the essence in the performance of this agreement; however, in the event good cause is shown, the Daly City City Council may extend the time for completion of the improvements hereunder. Any such extension may be granted without notice to Subdividers surety, and extensions so granted shall not relieve the surety's liability on the bond or bonds to secure faithful performance of this Agreement.

The Daly City City Council shall be the sole and final judge as to whether good cause has been shown to entitle Subdivider to an extension.

22. Time for Commencement of Work; Time Extensions; Performance.

Subdivider shall commence substantial construction of the improvements required by this agreement not later than three (3) months after the date of this agreement. In the event good cause exists as determined by the City Engineer, the time for commencement of construction or completion of the improvements hereunder may be extended for a period or periods not exceeding a total of two additional years. The extension shall be executed in writing by the City Engineer. Any such extension may be granted without notice to Subdivider's surety and shall not affect the validity of this agreement or release the surety or sureties on any security given for this agreement. The City Engineer shall be the sole and final judge as to whether or not good cause has been shown to entitle Subdivider to an extension. Delay resulting from an act of City, act of God, by storm or inclement weather, strikes, boycotts or similar political actions or any other cause beyond the reasonable control of Subdivider, which prevent the conducting of work, which Subdivider could not have reasonably foreseen, and furthermore were not caused by or contributed to by Subdivider, shall constitute good cause for an extension of the time for completion. As a condition of such extension, the City Engineer may require Subdivider to furnish new security guaranteeing performance of this agreement, as extended, in an increased amount to compensate for any increase in construction costs as determined by the City Engineer.

a. At least fifteen (15) calendar days prior to the commencement of work pursuant to this Agreement, Subdivider shall provide a written work schedule to the City Engineer so that the City Engineer may be able to provide services for inspection.

b. Unless otherwise extended pursuant to Paragraph 21, above, Subdivider must complete all improvements so that they may be accepted by the City, or approved by the City Engineer, within 730 consecutive calendar days after the date of execution of this Agreement.

c. Subdivider recognizes that by approval of the final map of this Subdivision, City has conferred substantial rights upon Subdivider, including the right to sell, lease, or finance lots within the Subdivision, and has taken the final act necessary to subdivide the property within the Subdivision. As a result, City will be damaged to the extent of the need for installation of the improvements by Subdivider's failure to perform its obligations under this

Agreement, including, but not limited to, Subdivider's obligation to commence construction of the improvements by the time established in this Agreement and Subdivider's obligation to complete construction of the improvements by the time established in this Agreement.

23. No Vesting of Rights. Performance by Subdivider of this agreement shall not be construed to vest Subdivider's rights with respect to any change in any zoning or building law or ordinance.

24. Subdivider's Insurance.

Subdivider shall not commence work under this agreement until Subdivider shall have obtained all insurance required under this paragraph and such insurance shall have been approved by the City Attorney's Office as to form, amount and carrier, nor shall Subdivider allow any contractor or subcontractor to commence work on his contract or subcontract until all similar insurance required of the contractor or subcontractor shall have been so obtained and approved. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier. The approved insurance coverage must be in full force until all work required by this agreement is complete and approved by the City.

a. Worker's Compensation Insurance.

Subdivider shall maintain, during the life of this agreement, Worker's Compensation Insurance for all Subdivider's employees employed at the site of improvement, and in case any work is sublet, Subdivider shall require any contractor or subcontractor similarly to provide Worker's Compensation Insurance for all contractor's or subcontractor's employees, unless such employees are covered by the protection afforded Page 15 by Subdivider. In case any class of employees engaged in work under this agreement at the site of the project is not protected under any Worker's Compensation Law, Subdivider shall provide, and shall cause each contractor and subcontractor to provide, adequate insurance for the protection of employees not otherwise protected. Subdivider hereby indemnifies City for any damages resulting to it from failure of either Subdivider or any contractor or subcontractor to take out or maintain such insurance.

b. General Liability, Property Damage & Automobile Insurance.

Subdivider shall take out and maintain during the life of this agreement such public liability and property damage insurance on an occurrence basis as shall insure City, its subsidiary agencies and their elective and appointive boards, commissions, officers, agents and employees, including the negligent act or omission of the City and the Subdivider and any contractor or subcontractor performing work covered by this agreement from claims for damages for personal injury including death, as well as from claims for property damage which may arise from Subdivider's or any contractor's or subcontractor's operations hereunder, whether such operations be by Subdivider or any contractor or subcontractor, or by anyone directly or indirectly employed by either Subdivider or any contractor or subcontractor, and the amounts of such insurance shall be as follows:

(1) General Liability Insurance.

The amounts of Public Liability Insurance shall be not less than \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate or \$3,000,000.00 combined single limit bodily injury and property damage for each occurrence.

(2) Property Damage Insurance.

In an amount not less than \$500,000.00 for damage to the property of each person on account of any one occurrence.

(3) Automobile Insurance.

Subdivider shall maintain Automobile Insurance pursuant to this agreement in an amount of not less than \$1,000,000.00 for each occurrence combined single limit or not less than \$500,000.00 for any one person, and \$1,000,000.00 for any one (1) accident, and \$300,000.00 property damage.

(4) “City of Daly City and its subsidiary agencies, and their officers, agents, employees and servants” shall be named as additional insured on any such policies of public liability and automobile liability insurance, except compensation insurance. Such endorsement shall also contain a provision that the insurance afforded thereby to the City, its subsidiary agencies, and their officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the City, its subsidiary agencies and their officers and employees have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.

c. Contractual Liability Insurance.

Subdivider shall take out and maintain during the life of this agreement an insurance policy in the amount of at least \$1,000,000.00 insuring City, its subsidiary agencies and their elective and appointive boards, commissions, officers, agents and employees covering Subdivider and any other contractor or subcontractor performing work covered by this agreement against damage to property or injury to persons sustained by reason of any contractual liability or alleged contractual liability on any contract, entered into by Subdivider and/or any of Subdivider’s contractors, subcontractors, agents and/or employees.

d. Cross Liability. In the event that any of the aforesaid insurance policies provided for in this paragraph insures any entity, person, board or commission other than those mentioned in this paragraph, such policy shall contain a standard form of cross-liability endorsement, insuring on such policy City, its subsidiary agencies and their elective and appointive boards, commissions, officers, agents and employees; Subdivider and any contractor or subcontractor performing work covered by this agreement.

e. Evidence of Insurance. Subdivider shall furnish City concurrently with the execution hereof, with satisfactory evidence of the insurance required, and evidence that each carrier is required to give City at least thirty days’ prior written notice of the cancellation or reduction in coverage of any policy during the effective period of this agreement.

25. Title to Improvements.

Except as otherwise detailed herein or on the subdivision improvement plans or the final map, title to, and ownership of, water mains and their appurtenant fittings and structures, including the service laterals from the mains up to and including the water meters, drainage pipes and structures serving the public streets and easements, public street lights and other improvements constructed by Subdivider within public rights-of-way and easements but excluding the common area improvements to be maintained by the property owners association per their covenant, conditions and restrictions, shall vest absolutely in City, upon completion and acceptance of such improvements by City. The City may at its option, accept said improvements for beneficial public use and maintenance upon their completion and before the Subdivider completes all required subdivision improvements.

26. Repair or Reconstruction of Defective Work.

Before requesting final acceptance of completed improvements or any portion thereof and release of Agreement cash or other security, the Subdivider shall post a Warranty Bond guaranteeing any corrective work required and covering the Warranty or Warranties as specified in Section 10, above. The amount of warranty bond obligation shall be no less than 10% of the total estimated cost of completing all required improvements to be constructed by Subdivider. The warranty bond shall stay in full force for a period of one year after the City accepts the improvements and releases the Security.

If, within a period of one year after final acceptance of the work performed under this agreement, Subdivider receives written notice from the City that any structure or part of any structure furnished and/or installed or constructed by Subdivider, or any of the work done under this agreement, fails to fulfill any of the requirements of this agreement or the specifications, Subdivider shall without any cost to City, repair or replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or structure. Should Subdivider fail to act within thirty (30) days after receipt of written notice from the City, or should the exigencies of the case require repairs or replacements to be made before Subdivider can be notified, City may, at its option, make the necessary repairs or replacements or perform the necessary work and Subdivider shall pay to City the actual cost of such repairs.

27. Cost of Engineering and Inspection.

Subdivider shall pay to City, pursuant to Title 16 of the Daly City Municipal Code, specifically Sections 16.20.020 and 16.20.030 thereof of the Code, all fees necessary for engineering, plan check and inspection. Other services furnished by City in connection with this subdivision not covered by the fees shall be paid by Subdivider. City shall furnish statements of all charges for such services performed by City, and Subdivider shall complete payment of such charges within ten (10) days after receipt thereof.

28. Notice of Default.

If Subdivider is in default of this agreement as defined in Section 9 above, the City Engineer or City Council may serve written notice upon Subdivider and Subdivider's surety of breach of this agreement, or of any portion thereof, and default of Subdivider.

After expiration of any applicable notice and cure period, City may take over the work and prosecute the same to completion, by contract or by any other method City may deem advisable, for the account and at the expense of Subdivider, and Subdivider's Surety shall be liable to City for any excess cost or damages occasioned City thereby; and, in such event, City, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to Subdivider as may be on the site of the work and necessary for performance of the work.

29. Breach of Agreement: Performance by Surety or City.

In the event of any such Notice of Default (Section 28, above), Subdivider's surety shall have the duty to take over and complete the work and the improvement herein specified; provided, however, that if the surety, within ten (10) days after the serving upon it of such notice of its intention to take over the performance of the contract, and does not commence performance thereof within ten (10) days after notice to City of such election, City may take over the work and prosecute the same to completion, by contract or by any other method City may deem advisable, for the account and at the expense of Subdivider, and Subdivider's surety shall be liable to City for any excess or damages occasioned City thereby; and, in such event, City, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to Subdivider as may be on the site of the work and necessary therefor.

30. Notices.

All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid. Notices required to be given to City shall be addressed as follows:

City of Daly City
c/o City Engineer
City Hall
333-90th Street
Daly City, California 94015

Notices required to be given to Subdivider shall be addressed as shown on the first page of this agreement.

Notices required to be given surety of Subdivider shall be addressed to the last known or provided address by the surety.

Any party or the surety may change such address by notice in writing to the other parties and thereafter notices shall be addressed and transmitted. Notice shall be effective on the date it is delivered in person, or, if mailed, on the date of deposit in the United States Mail.

31. Building Occupancy Permits.

All required improvements, utilities, landscaping and other services shall be completed and accepted by the City of Daly City before a request is made for a Building Occupancy Permit.

32. Conditions, Covenants and Restrictions (or Declaration of Covenants); Final Subdivision Map and Deeds and Easements.

Prior to the sale of any residential units, the Subdivider must have:

- a. City and State approved Conditions, Covenants and Restrictions (or Declaration of Covenants);
- b. a recorded final subdivision map covering the units proposed for sale;
- c. City approved form of deed(s) covering necessary cross-easements or other such title documents providing for on-site vehicle access and parking.

33. Compliance with Laws. Subdivider, its agents, employees, contracts, and subcontractors shall comply with all federal, state and local laws in the performance of the improvements and land development work required by this agreement.

34. Severability. The provisions of this agreement are severable. If any portion of this agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

35. Captions. The captions of this agreement are for convenience and reference only and shall not define, explain, modify, limit, exemplify, or aid in the interpretation, construction or meaning of any provisions of this agreement.

36. Litigation. In the event that suit is brought to enforce the terms of this agreement, the prevailing party shall be entitled to litigation costs and reasonable attorney's fees.

37. Incorporation of Recitals. The recitals to this agreement are hereby incorporated into the terms of this agreement.

38. Entire Agreement. This agreement constitutes the entire agreement of the parties with respect to the subject matter. All modification, amendments, or waivers of the terms of this agreement must be in writing and signed by the appropriate representatives of the parties.

39. Interpretation. This agreement shall in interpreted in accordance with the laws of the State of California.

40. Jurisdiction. Jurisdiction of all disputes over the terms of this agreement shall be in the County of San Mateo, State of California.

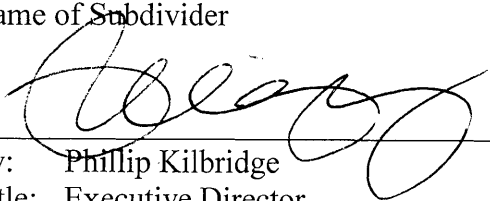
IN WITNESS WHEREOF, this agreement is executed by the parties as of the date hereinabove first written.

SUBDIVIDER:

CITY OF DALY CITY:

Habitat for Humanity Greater San Francisco

Name of Subdivider

By: 
Title: Executive Director

Carol L. Klatt
MAYOR

ATTEST:

By:
Title:
(Proof of authorization for Subdivider's
signatures required and must be attached)

K. Annette Hipona
CITY CLERK

Recommended for Approval:

Engineering Division, Department of Public
Work for the City of Daly City

NOTICE: The Conditions of Approval for the tentative map for this Subdivision include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), this Notice constitutes written notice of a statement of the amount of such fees, and description of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby notified that the 90-day approval period in which you may protest these fees, dedications, reservation, and other exactions, pursuant to Government Code Section 66020(a), begins on the date the City Council approves the Final Map. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

EXHIBIT "A"
SUBDIVISION IMPROVEMENT AGREEMENT

Mission Street Condominiums
(SUBDIVISION/UNIT NO.)

Habitat for Humanity Greater San Francisco
(Subdivider)

IMPROVEMENTS REQUIRED – COST

<u>Improvements</u>	<u>Estimated Costs</u>
1. Streets	\$ 2,000
2. Sidewalks (including driveway approaches)	\$ 26,000
3. Curb and gutters	\$ 7,500
4. Storm drainage facilities	\$ 43,800
5. Sanitary sewer facilities	\$ 31,800
6. Subdivision monumentation	\$ 3,500
7. Other facilities	
A. <u>Water Main & Fire Hydrant Facilities</u> (By Others)	\$ -
B. <u>Signing and Striping</u>	\$ 500
C. <u>Retaining Walls</u>	\$ 11,000
D. <u>Street Lights</u>	\$ 3,000
E. <u>Joint Utilities</u>	\$ 45,000
8. Contingency allowance	\$ 17,400
9. TOTAL ESTIMATED COST-REQUIRED IMPROVEMENTS	\$ 191,500

EXHIBIT "B"
SUBDIVISION IMPROVEMENT AGREEMENT

MISSION STREET CONDOMINIUMS
(SUBDIVISION/UNIT NO.)

HABITAT FOR HUMANITY GREATER SAN FRANCISCO
(Subdivider)

FEES REQUIRED

FEES AND CHARGES:

1.	City's Plan Review charges (including Final Map)	\$	5,055.75
2.	Subdivision Agreement	\$	3,200.00
3.	Improvement Inspection charges	\$	8,524.00
4.	Parkland Dedication In-Lieu Fees (Waived by Council Action)		
	Total	\$	16,779.75

FEES COLLECTED WITH BUILDING PERMITS:

1.	Public Facility fees AB1600	\$	182,664.00
2.	Building permit charges	\$	187,889.95

REFUNDABLE DEPOSITS:

1.	Cash deposit for emergency, and clean-up and other corrective work shall be maintained at an amount not less than:	\$	12,250.00
2.	Cash deposit for construction and demolition recycling program:	\$	30,000.00
3.	Cash deposit for the photo-mylar reproducible of the Final Map after it is filed with the County Recorder:	\$	200.00

STORMWATER TREATMENT MEASURES
MAINTENANCE AGREEMENT

RECITALS

This Stormwater Treatment Measures Maintenance Agreement ("Agreement") is entered into this October 20, 2010 by and between the City of Daly City ("City") and Habitat for Humanity Greater San Francisco ("Property Owner"), a property owner of real property described in this Agreement.

WHEREAS, On February 19, 2003, the Regional Water Quality Control Board, San Francisco Bay Region, adopted Order R2-2003-0023, amending the San Mateo Countywide NPDES Municipal Stormwater Permit (Order 99-059, CAS0029921; and

WHEREAS, Provision C.3.e.ii. of this NPDES permit, and as it may be amended or reissued, requires the permittee public agencies to provide minimum verification and access assurances that all treatment measures shall be adequately operated and maintained by entities responsible for the stormwater treatment measures; and

WHEREAS, the Property Owner, Habitat for Humanity Greater San Francisco, is the owner of real property commonly known as 7555 Mission Street, Daly City, CA, 94014 (the "Property"), and more particularly described in the attached legal description (Exhibit A).

WHEREAS, attached hereto as Exhibit B is a legible reduced-scale copy of the Site Plan or comparable document showing the stormwater treatment measures that are to be located or to be constructed on the Property; and

WHEREAS, the City is the permittee public agency with jurisdiction over the Property.

WHEREAS, the Property Owner recognizes that the stormwater treatment measure(s) more particularly described and shown on Exhibit C, of which full-scale plans and any amendments thereto are on file with the Planning Division of the City of Daly City must be installed and maintained as indicated in this Agreement and as required by the NPDES permit.

WHEREAS, the City and the Property Owner agree that the health, safety and welfare of the citizens of the City require that the stormwater treatment measure(s) detailed in the Site Plan or comparable document be constructed and maintained on the Property; and

WHEREAS, the City's Stormwater Management Ordinance, guidelines, criteria and other written directions require that the stormwater treatment measure(s), as shown on the approved Site Plan or comparable document, be constructed and maintained by the Property Owner

THEREFORE, in consideration of the benefit received by the Property Owner as a result of the City's approval of the Site Plan, the Property Owner hereby covenants and agrees with the City as follows:

SECTION 1: CONSTRUCTION OF TREATMENT MEASURES

The on-site stormwater treatment measure(s) shown on the Site Plan or comparable document shall be constructed by the Property Owner in strict accordance with the approved plans and specifications identified for the development and any other requirements thereto which have been approved by the City in conformance with appropriate City ordinances, guidelines, criteria and other written direction.

SECTION 2: OPERATION & MAINTENANCE RESPONSIBILITY

This agreement shall serve as the signed statement by the Property Owner accepting responsibility for operation and maintenance of stormwater treatment measures as set forth in this Agreement until the responsibility is legally transferred to another person or entity. Before the Property is legally transferred to another person or entity, the Property Owner shall provide to the City at least one of the following:

1) A signed statement from the public entity assuming post-construction responsibility for treatment measure maintenance and that the treatment measures meet all local agency design standards; or

2) Written conditions in the sales or lease agreement requiring the buyer or lessee to assume responsibility for operation and maintenance (O&M) consistent with this provision, which conditions, in the case of purchase and sale agreements, shall be written to survive beyond the close of escrow; or

3) Written text in project conditions, covenants and restrictions (CCRs) for residential properties assigning O&M responsibilities to the home owners association for O&M of the treatment measures; or

4) Any other legally enforceable agreement or mechanism that assigns responsibility for the maintenance of treatment measures.

SECTION 3: MAINTENANCE OF TREATMENT MEASURES

The Property Owner shall not destroy or remove the stormwater treatment measures from the Property nor modify the stormwater treatment system in a manner that lessens its effectiveness, and shall, at Property Owner's sole expense, adequately maintain the stormwater treatment measure(s) in good working order acceptable to the City and in accordance with the maintenance plan agreed hereto and attached as Exhibit D. This includes all pipes, channels or other conveyances built to convey stormwater to the treatment measure(s), as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as maintaining the described facilities in good working condition so that these facilities continue to operate as originally designed and approved. The maintenance plan shall include a detailed description of and schedule for long-term maintenance activities.

SECTION 4: SEDIMENT MANAGEMENT

Sediment accumulation resulting from the normal operation of the stormwater treatment measure(s) will be managed appropriately by the Property Owner. The Property Owner will provide for the removal and disposal of accumulated sediments. Disposal of accumulated sediments shall not occur on the Property, unless provided for in the maintenance plan. Any disposal or removal of accumulated sediments or debris shall be in compliance with all federal, state and local law and regulations.

SECTION 5: ANNUAL INSPECTION AND REPORT

The Property Owner shall, on an annual basis, complete the Treatment Measure Operation and Maintenance Inspection Report (annual report), attached to this agreement as Exhibit E. The annual report shall include all completed Inspection and Maintenance Checklists for the reporting period and shall be submitted to the City in order to verify that inspection and maintenance of the applicable

stormwater treatment measure(s) have been conducted pursuant to this agreement. The annual report shall be submitted no later than December 31 of each year, under penalty of perjury, to [insert name or title of City staff member, department and address] or another member of the City staff as directed by the City. The Property Owner shall provide in the annual report a record of the volume of all accumulated sediment removed as a result of the treatment measure(s). The Property Owner shall conduct a minimum of one annual inspection of the stormwater treatment measure(s) before the wet season. This inspection shall occur between August 1st and October 1st each year. More frequent inspections may be required by the maintenance plan (Exhibit D). The results of inspections shall be recorded on the Inspection and Maintenance Checklist(s) attached as Exhibit F.

SECTION 6: NECESSARY CHANGES AND MODIFICATIONS

At its sole expense, the Property Owner shall make changes or modifications to the stormwater treatment measure(s) and/or the long-term maintenance plan (Exhibit D) as may be determined as reasonably necessary by the City to ensure that treatment measures are properly maintained and continue to operate as originally designed and approved.

SECTION 7: ACCESS TO THE PROPERTY

The Property Owner hereby grants permission to the City; the San Francisco Bay Regional Water Quality Control Board (Regional Board); the San Mateo County Mosquito Abatement District (Mosquito Abatement District); and their authorized agents and employees to enter upon the Property at reasonable times and in a reasonable manner to inspect, assess or observe the stormwater treatment measure(s) in order to ensure that treatment measures are being properly maintained and are continuing to perform in an adequate manner to protect water quality and the public health and safety. This includes the right to enter upon the Property whenever there is a reasonable basis to believe that a violation of this Agreement, the City's stormwater management ordinance, guidelines, criteria, other written direction, or the San Mateo Countywide NPDES Municipal Stormwater Permit (Regional Board Order 99-059, as amended by Regional Board Order R2-2003-0023, and any amendments or reissuances of this permit) is occurring, has occurred or threatens to occur. The above listed agencies also have a right to enter the Property when necessary for abatement of a public nuisance or correction of a violation of the ordinance guideline, criteria or other written direction. The City, Regional Board, or the Mosquito Abatement District shall provide reasonable (as may be appropriate for the particular circumstances) notice to the Property Owner before entering the property.

SECTION 8: FAILURE TO MAINTAIN TREATMENT MEASURES

In the event the Property Owner fails to maintain the stormwater treatment measure(s) as shown on the approved Site Plan or comparable document in good working order acceptable to the City and in accordance with the maintenance plan incorporated in the Agreement, the City, and its authorized agents and employees with reasonable notice, may enter the Property and take whatever steps it deems necessary and appropriate to return the treatment measure(s) to good working order. Such notice will not be necessary if emergency conditions require immediate remedial action. This provision shall not be construed to allow the City to erect any structure of a permanent nature on the Property. It is expressly understood and agreed that the City is under no obligation to maintain or repair the treatment measure(s) and in no event shall this Agreement be construed to impose any such obligation on the City.

SECTION 9: REIMBURSEMENT OF CITY EXPENDITURES

In the event the City, pursuant to this Agreement, performs work of any nature (direct or indirect), including any reinspections or any actions it deems necessary or appropriate to return the treatment measure(s) in good working order as indicated in Section 8, or expends any funds in the performance of said work for labor, use of equipment, supplies, materials, and the like, the Property Owner shall reimburse the City, or shall forfeit any required bond upon demand within thirty (30) days of receipt thereof for the costs incurred by the City hereunder. If these costs are not paid within the prescribed time period, the City may assess the Property Owner the cost of the work, both direct and indirect, and applicable penalties. Said assessment shall be a lien against the Property or may be placed on the property tax bill and collected as ordinary taxes by the City. The actions described in this section are in addition to and not in lieu of any and all legal remedies as provided by law, available to the City as a result of the Property Owner's failure to maintain the treatment measure(s).

SECTION 10: INDEMNIFICATION

The Property Owner shall indemnify, hold harmless and defend the City and its authorized agents, officers, officials and employees from and against any and all claims, demands, suits, damages, liabilities, losses, accidents, casualties, occurrences, claims and payments, including attorney fees claimed or which might arise or be asserted against the City that are alleged or proven to result or arise from the construction, presence, existence or maintenance of the treatment measure(s) by the Property Owner or the City. In the event a claim is asserted against the City, its authorized agents, officers, officials or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend at its own expense any suit based on such claim. If any judgment or claims against the City, its authorized agents, officers, officials or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith. This section shall not apply to any claims, demands, suits, damages, liabilities, losses, accidents, casualties, occurrences, claims and payments, including attorney fees claimed which arise due solely to the negligence or willful misconduct of the City.

SECTION 11: NO ADDITIONAL LIABILITY

It is the intent of this agreement to insure the proper maintenance of the treatment measure(s) by the Property Owner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability not otherwise provided by law of any party for damage alleged to result from or caused by storm water runoff.

SECTION 12: PERFORMANCE FINANCIAL ASSURANCE

The City may request the Property Owner to provide a performance bond, security or other appropriate financial assurance providing for the maintenance of the stormwater treatment measure(s) pursuant to the City's ordinances, guidelines, criteria or written direction.

SECTION 13: TRANSFER OF PROPERTY

This Agreement shall run with the title to the land and any portion thereof. The Property Owner further agrees whenever the Property or any portion thereof is held, sold, conveyed or otherwise transferred, it shall be subject to this Agreement which shall apply to, bind and be obligatory to all present and subsequent owners of the Property or any portion thereof.

SECTION 14: SEVERABILITY

The provisions of this Agreement shall be severable and if any phrase, clause, section, subsection, paragraph, subdivision, sentence or provision is adjudged invalid or unconstitutional by a court of competent jurisdiction, or the applicability to any Property Owner is held invalid, this shall not affect or invalidate the remainder of any phrase, clause, section, subsection, paragraph, subdivision, sentence or provision of this Agreement.

SECTION 15: RECORDATION

This Agreement shall be recorded by the Property Owner within 20 days after the execution date of this Agreement in the County Recorder's Office of the County of San Mateo, California at the Property Owner's expense. The City reserves the option to record this Agreement.

SECTION 16: RELEASE OF AGREEMENT

In the event that the City determines that the stormwater treatment measures located on the Property are no longer required, then the City, at the request of the Property Owner shall execute a release of this Maintenance Agreement, which the Property Owner shall record in the County Recorder's Office at the Property Owner's expense. The City reserves the option to record such release of this Maintenance Agreement. The stormwater treatment measure(s) shall not be removed from the Property unless such a release is so executed and recorded.

SECTION 17: EFFECTIVE DATE AND MODIFICATION

This Agreement is effective upon the date of execution as stated at the beginning of this Agreement. This Agreement shall not be modified except by written instrument executed by the City and the Property -Owner at the time of modification. Such modifications shall be effective upon the date of execution and shall be recorded.

Signature for the City

Date

Type or print name and title



Property Owner Signature

11/17/10

Date

Phillip Kilbridge

Type or print Property Owner name and address

EXHIBIT A
LEGAL DESCRIPTION
FOR
7555 MISSION STREET
CITY OF DALY CITY, SAN MATEO COUNTY, CA

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

(City of Daly City)

PARCEL ONE:

Lots 76, 77, 78 and 79 in Block 9, as shown on the Map entitled "Map of Property of the Garden Valley Land Association", filed January 22, 1872 in Book "E" of Original Maps at Page 13, and copied into Book 1 (One) of Maps at Page 8.

EXCEPTING THEREFROM:

All that portion described in the Deed in favor of the State of California recorded November 16, 1926 in Book 269, Page 357.

ALSO EXCEPTING THEREFROM:

All that portion lying within "First Avenue", as shown on the Map entitled "A Resubdivision of Blocks 8 and 9 of the Garden Valley Land Association", filed November 13, 1950 in Book 32 of Maps, Page 34.

ALSO EXCEPTING THEREFROM:

All that portion described in the Joint Tenancy Deed in favor of Joseph Borelli, et al, recorded November 7, 1956 in Book 3124, Page 75.

PARCEL TWO:

The West half of the following described property:

"Beginning at the point of intersection of the Northerly line of 'A' Street with the Westerly line of First Street, formerly Garden Street, as shown on a Map entitled 'Property of Garden Valley Land Association, San Mateo County', a copy of which is filed in the Office of the Recorder of San Mateo County, in Book 1 of Maps at Page 8; thence from said point of beginning North along the Westerly line of said First Street, a distance of 194.54 feet to a point from which the center of the next described curve bears North 48° 35' 25" East 40 feet; thence Southeasterly, Easterly and Northeasterly along the arc of a curve to the left having a radius of 40 feet and a central angle of 97° 10' 50", a distance of 67.85 feet to the Easterly line of said First Street; thence South along the last mentioned line, a distance of 194.54 feet to the Northerly line of said 'A' Street; thence West along the Westerly extension of the last mentioned line, a distance of 60 feet to the point of beginning.

EXHIBIT A (Continued)

Assessor's Parcel Number	006-392-340
Joint Plant Number	006-039-392-34A

SITE PLAN (NO SCALE)

7555 MISSION STREET
DALY CITY, CA

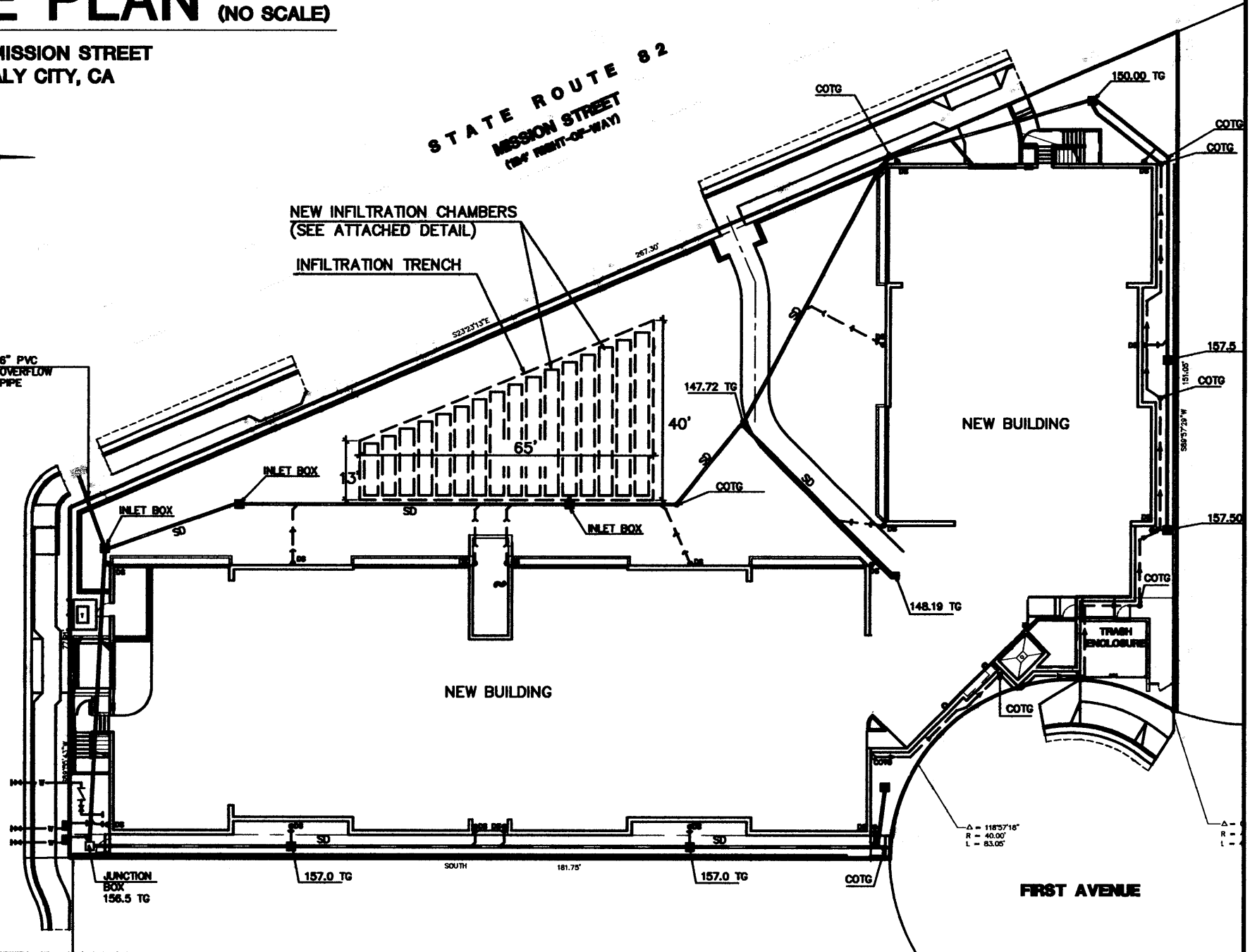
STATE ROUTE 82
MISSION STREET
(80' RIGHT-OF-WAY)

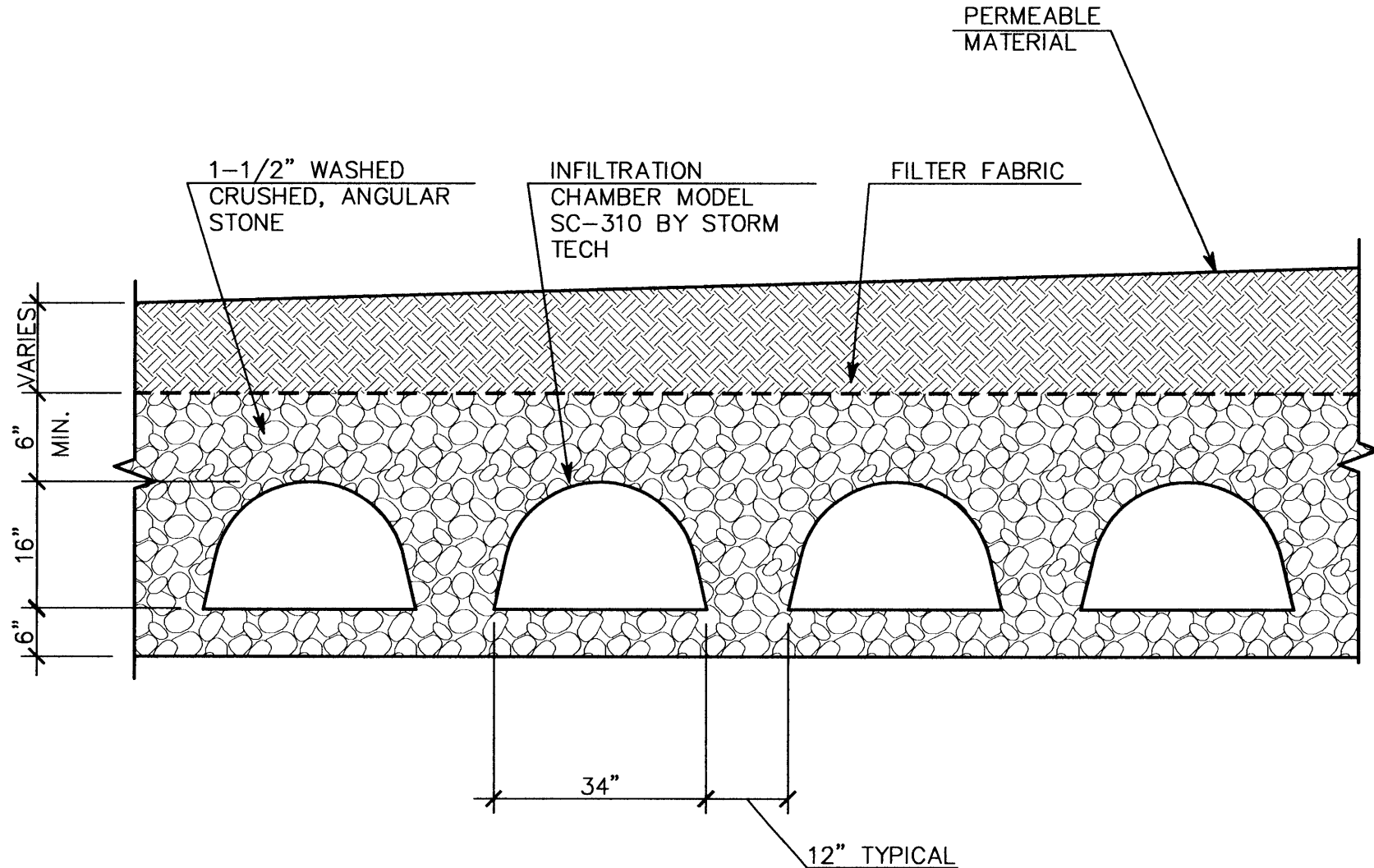
NEW INFILTRATION CHAMBERS
(SEE ATTACHED DETAIL)

INFILTRATION TRENCH

6" PVC
OVERFLOW
PIPE

"A" STREET
(80' RIGHT-OF-WAY)





INFILTRATION CHAMBERS DETAIL

SCALE: NOT TO SCALE

Infiltration Trench Inspection and Maintenance Checklist

Property Address: 7555 Mission Street, Daly City, CA 94014 Property Owner: Habitat for Humanity

Treatment Measure No.: _____ Date of Inspection: _____ Type of Inspection: ☐ Monthly ☐ Pre-Wet Season
☐ After heavy runoff ☐ End of Wet Season
☐ Other: _____

Inspector(s): _____

Defect	Conditions When Maintenance Is Needed	Maintenance Needed? (Y/N)	Comments (Describe maintenance completed and if needed maintenance was not conducted, note when it will be done)	Results Expected When Maintenance Is Performed
1. Standing Water	When water stands in the infiltration trench between storms and does not drain within 5 days after rainfall.			There should be no areas of standing water once inflow has ceased. Any of the following may apply: sediment or trash blockages removed, improved grade from head to foot of infiltration trench, removed clogging at check dams, or added underdrains.
2. Trash and Debris Accumulation	Trash and debris accumulated on and around the infiltration trench.			Trash and debris removed from infiltration trench and disposed of properly.
3. Sediment	Evidence of sedimentation in trench. Less than 50% storage volume remaining in sediment traps, forebays or pretreatment swales.			Material removed and disposed of properly so that there is no clogging or blockage.
4. Inlet/Outlet	Inlet/outlet areas clogged with sediment or debris, and/or eroded.			Material removed and disposed of properly so that there is no clogging or blockage in the inlet and outlet areas.
5. Overflow Pipe	Clogged with sediment or debris, and/or eroded.			Material removed and disposed of properly so that there is no clogging or blockage, and trench is restored to design condition.
6. Filter Fabric	Annual inspection, by removing a small section of the top layer, shows sediment accumulation that may lead to trench failure.			Replace filter fabric, as needed, to restore infiltration trench to design condition.
7. Inlet Box	Routine monitoring of inlet box indicates that trench is not draining within specified time.			Restore trench to design conditions.
8. Miscellaneous	Any condition not covered above that needs attention in order for the infiltration trench to function as designed.			Meet the design specifications.

EXHIBIT D

Infiltration Trench Maintenance Plan for 7555 Mission Street, Daly City, CA

Project Address and Cross Streets:
7555 Mission Street at "A" Street
Daly City, CA 94014

Assessor's Parcel No.: 006-392-340

Property Owner: Habitat for Humanity

Phone No.: (415) 625-1044

Designated Contact: Ed Lehmer

Phone No.: (415) 794-1875

Mailing Address: 645 Harrison Street, Suite 201 San Francisco, CA 94107

I. Description of Infiltration Trench

The property contains a trapezoidal-shaped infiltration trench, comprised of rows of infiltration chambers backfilled with stone aggregate, located along the west side of the subject property and as shown on the attached site plan.

II. Routine Maintenance Activities

The principal maintenance objective is to prevent sediment buildup and clogging, which reduces pollutant removal efficiency and may lead to trench failure. Routine maintenance activities, and the frequency at which they will be conducted, are shown in Table 1.

Table 1 Routine Maintenance Activities for Infiltration Trenches		
No.	Maintenance Task	Frequency of Task
1	Remove obstructions, debris and trash from the surface of the infiltration trench and dispose of properly.	Monthly, or as needed after storm events
2	Inspect trench to ensure that it drains between storms, and within 5 days after rainfall. Check the inlet box 2-3 days after storm to confirm drainage.	Monthly during wet season, or as needed after storm events
3	Inspect filter fabric under the surface for sediment deposits by removing a small section of the top soil layer.	Annually
4	Monitor inlet box to confirm that trench has drained during dry season.	Annually, during dry season
5	Mow and trim vegetation over and around the trench to maintain a neat and orderly appearance.	As needed
6	Remove any trash, grass clippings and other debris over and around the trench and dispose of properly.	As needed
7	Check for erosion at inflow or overflow structures.	As needed
8	Confirm that the grate of the inlet box is properly fitted on top of the box.	At every inspection
9	Inspect infiltration trench using the attached inspection checklist.	Monthly, or after large storm events, and after removal of accumulated debris or material

Infiltration Trench Maintenance Plan
Property Address: 7555 Mission Street, Daly City

Date of Inspection: _____
Treatment Measure No.: _____

III. Prohibitions

Trees and other large vegetation shall be prevented from growing adjacent to the trench to prevent damage.

Standing water shall not remain in the treatment measures for more than five days, to prevent mosquito generation. Should any mosquito issues arise, contact the San Mateo County Mosquito Abatement District (SMCMAD), as needed for assistance. Mosquito larvicides shall be applied only when absolutely necessary, as indicated by the SMCMAD, and then only by a licensed professional or contractor. Contact information for SMCMAD is provided below.

IV. Mosquito Abatement Contact Information

San Mateo County Mosquito Abatement District
1351 Rollins Road
Burlingame, CA 94010
PH: (650) 344-8592
FAX: (650) 344-3843
Email: info@smcmad.org

V. Inspections

The attached Infiltration Trench Inspection and Maintenance Checklist shall be used to conduct inspections monthly (or as needed), identify needed maintenance, and record maintenance that is conducted.



City Council Agenda Report

Item # _____

Meeting Date: January 10, 2011

Subject: Acceptance of Public Improvements for Kauai Estates Subdivision

Recommended Action

Staff recommends that the City Council accept for City maintenance certain public improvements completed in conjunction with the Kauai Estates subdivision.

Background

The Kauai Estates subdivision, located west of the Village in the Park development, includes seven (7) single family lots on approximately two acres. The final map and subdivision improvement agreement were approved by the Council on June 12, 2006.

Discussion

The subdivider, Eviet Investments, has completed construction of the improvements required in the subdivision agreement as per the approved improvements plans. The public improvements completed include street, sidewalk and sewer main improvements within Crocker Avenue to access the development site and the sewer mains, water main and water service laterals within the subdivision's ingress and egress and public utility easements. The improvements were inspected and approved as constructed in compliance with City's standards and the approved drawings.

The subdivider has also completed other improvements required by the subdivision improvement agreement including the common area facilities such as the private street, access driveway, retaining walls, sewer laterals, storm water drainage improvements and detention facilities, and has set up a Home Owners Association (HOA) to manage and maintain these improvements.

Fiscal Impact

City maintenance of the street improvements in Crocker Avenue will be through Gas Tax and the General Fund similar to other streets and is a negligible increase to the City's current level of responsibility for such improvements. City maintenance of the water system improvements will be borne by the rate payers. The subdivider is further required to warranty the public improvements constructed for this project. The subdivider has established a HOA that will be responsible for maintenance of other common interest improvements.

Summary/Conclusion

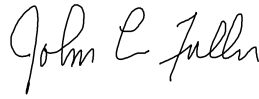
Staff recommends that the City Council accept for maintenance the street, sidewalk and sewer main improvements within Crocker Avenue and sewer main, water main and water service laterals within the subdivision's ingress and egress and public utility easements, completed with the Kauai Estates subdivision.

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,



Robert Ovadia
Senior Civil Engineer



John L. Fuller
Director of Public Works

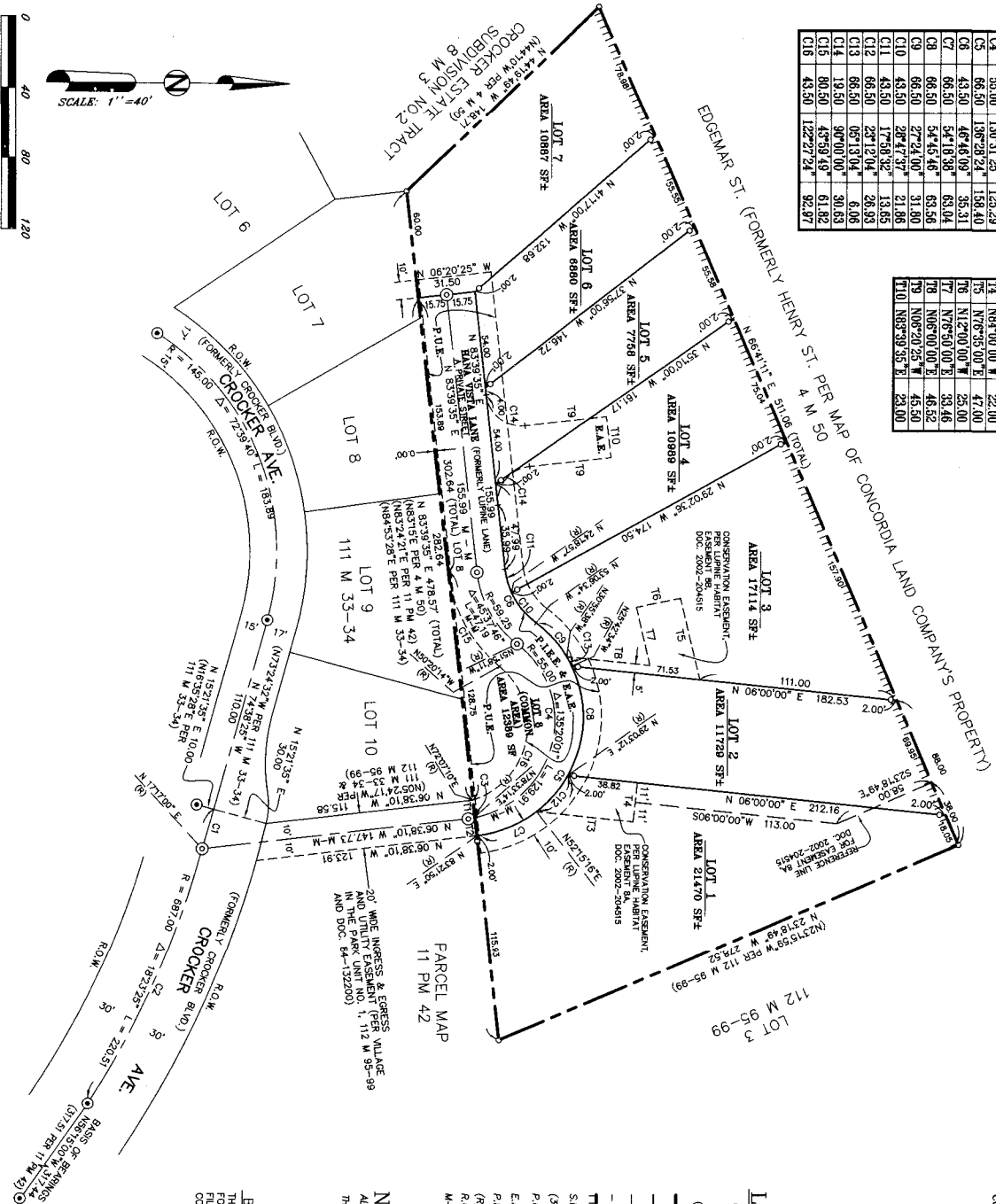
Attachments: Location Map Kauai Estates Subdivision

CURVE DATA

C#	RADIUS (FT)	DELTA (°)	LENGTH (FT)
C1	687.00	01°55'25"	23.06
C2	687.00	16°28'00"	197.44
C3	58.00	04°48'36"	4.02
C4	58.00	130°51'25"	123.29
C5	66.50	136°28'24"	158.40
C6	43.50	46°46'09"	35.31
C7	66.50	54°18'36"	63.04
C8	66.50	54°45'46"	63.56
C9	66.50	27°24'00"	31.80
C10	43.50	28°47'37"	21.86
C11	43.50	17°58'32"	13.65
C12	66.50	23°12'04"	28.63
C13	66.50	06°13'04"	6.66
C14	19.50	90°00'00"	30.83
C15	40.50	43°59'49"	61.82
C16	43.50	122°27'24"	92.97

COURSE DATA

T#	BEARING	DISTANCE
T1	N83°39'35"E	8.61
T2	N63°39'35"E	10.19
T3	N06°00'00"E	94.02
T4	N84°00'00"W	22.00
T5	N76°35'00"E	47.00
T6	N12°00'00"W	25.00
T7	N76°50'00"E	33.46
T8	N06°00'00"E	46.52
T9	N06°20'23"E	45.50
T10	N83°39'35"E	23.00



KAUAI ESTATES

CONSISTING OF TWO SHEETS

BEING A RECONSTRUCTION OF THE LANDS DESCRIBED IN THAT CERTAIN GRANT DEED, CONVERTED TO TRUST INVESTMENT, INC., A CALIFORNIA CORPORATION, DATED AND FILED FOR RECORD IN BOOK 11 OF PARCEL MAPS, COUNTY RECORDS, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP.

LIVING ENTIRELY WITHIN THE CITY OF DAILY CITY, SAN MATEO COUNTY, CALIFORNIA

MAY 2006

ADVANCED DEVELOPMENT

Civil Engineer
2825 BENJAMIN COURT
SAN JOSE, CALIFORNIA

LEGEND

- SET CITY STANDARD MONUMENT
- SET 3/4" IRON PIPE, TAPPED "ICE 3309"
- STANDARD CITY MONUMENT FOUND
- DISTINCTIVE BORDER LINE
- LOT LINE
- MONUMENT LINE AND/OR CENTER LINE
- EASEMENT LINE
- INDICATES NO ACCESS
- INDICATES SQUARE FEET TO THE NEAREST WHOLE NUMBER (37/31)
- INDICATES RECORDED DATA AS NOTED ON MAP
- P.U.E. INDICATES PUBLIC UTILITY EASEMENT
- E.A.E. INDICATES EGRESS ACCESS EASEMENT
- P.I.E. INDICATES PRIVATE INGRESS EGRESS EASEMENT
- (R) INDICATES RADIAL BEARING
- R.O.W. INDICATES RIGHT OF WAY
- M-M MONUMENT TO MONUMENT DISTANCE

NOTES

ALL DISTANCES AND DIMENSIONS ARE IN FEET AND DECIMALS THEREOF. THE AREA WITHIN THE DISTINCTIVE BORDER IS 92215 SQ.F.T.± (2.28 ACRES).

BASIS OF BEARINGS

THE BEARING MONUMENT OF THE MONUMENT LINE OF CROCKER AVENUE, FORMERLY CROCKER BOULEVARD, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED FOR RECORD IN BOOK 11 OF PARCEL MAPS AT PAGE 42, SAN MATEO COUNTY RECORDS, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP.



City Council Meeting Agenda Report

Item # _____

Meeting Date: January 10, 2011

Subject: Authorizing the City Manager to Execute a Memorandum of Understanding between the San Mateo County Transit District and the City of Daly City for Grant Funding for a Bus Shelter and other Improvements on Bayshore Boulevard

Recommended Action

It is recommended that the City Council authorize the City Manager to execute a Memorandum of Understanding (MOU) between the San Mateo County Transit District and the City of Daly City for Grant Funding for a bus shelter and accessibility improvements on the southbound side of Bayshore Boulevard near Geneva Avenue.

Background

The City of Daly City sought a Lifeline Transportation Program grant from the Metropolitan Transportation Commission (MTC), through the City/County Association of Governments of San Mateo County (C/CAG), to build a bus shelter near the 7 Mile House Bar and Grill, 2800 Bayshore Boulevard. C/CAG was awarded \$187,181 of Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account ("PTMISEA") funding for the project.

Discussion

The Lifeline Transportation Program grant funding will be used to construct a bus shelter near the 7 Mile House in Brisbane. Additionally, the project would include curb, gutter, and sidewalk improvements to make the shelter accessible to wheelchair-bound individuals. The existing SamTrans bus stop is in an unpaved area on the southbound side of Bayshore Boulevard. During the rainy season, riders using the stop are exposed to the elements. Further, the unpaved area that serves as the bus stop collects storm water runoff, which accumulates in large muddy puddles.

Most of the proposed project area is within the incorporated limits of Brisbane. However, the vast majority of passengers boarding buses at this stop are Daly City residents from the Bayshore neighborhood. Brisbane's Department of Public Works will be the lead agency for this project, and has assumed responsibility for designing the improvements and administering the construction contract.

Fiscal Impact

Should the MOU with the San Mateo Transit District be executed, and the grant funding remitted, matching funds of \$6,000 are required. This match need not be a cash contribution. The value of engineering inspections related to the project, expected to be approximately \$6,000, would satisfy the match requirement. Brisbane and SamTrans have agreed to fund the balance of the match at \$35,996 and \$5,564 respectively.

City Council Agenda Report

**Subject: Authorizing the City Manager to Execute a Memorandum of Understanding
between the San Mateo County Transit District and the City of Daly City for Grant
Funding for a Bus Shelter and other Improvements on Bayshore Boulevard**

Meeting Date: January 10, 2011

Page 2 of 2

Summary/Conclusion

Daly City has long sought improvements to the southbound SamTrans bus stop on Bayshore Boulevard near Geneva Avenue. Unfortunately, jurisdictional boundaries have presented an obstacle in the City's efforts to address the deficiencies of the bus stop. Although the bus stop is located wholly within the city limits of Brisbane, it is primarily used by residents of Daly City's Bayshore neighborhood. SamTrans has been a willing partner throughout the years, but SamTrans does not have the resources or responsibility to make the proposed improvements. The Lifeline Transportation Program and the partnership with the City of Brisbane make this project feasible with little fiscal impact to Daly City.

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

A handwritten signature in black ink, reading "Joseph F. Curran". The signature is fluid and cursive, with the first name "Joseph" and last name "Curran" clearly legible.

Joseph F. Curran
Assistant to the City Manager

Attachment: Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING
Between
SAN MATEO COUNTY TRANSIT DISTRICT
and
THE CITY OF DALY CITY

This Memorandum of Understanding ("MOU"), effective the 1st Day of July 2010, is entered into by and between the San Mateo County Transit District ("DISTRICT") and the City of Daly City ("RECIPIENT").

WHEREAS, the Lifeline Transportation Program ("LTP") was established by the Metropolitan Transportation Commission ("MTC") to fund operating and capital projects that result in improved mobility for low income residents in the San Francisco Bay Area and the City/County Association of Governments of San Mateo ("C/CAG") is responsible for the administration of the LTP in San Mateo County; and

WHEREAS, the RECIPIENT applied to C/CAG for funding under the LTP to implement bus stop improvements ("PROJECT"); and

WHEREAS, C/CAG has awarded \$187,181 of Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account ("PTMISEA") funding to the RECIPIENT for the PROJECT; and

WHEREAS, C/CAG has requested that the DISTRICT, as the only eligible recipient of PTMISEA funds in San Mateo County, file applications on behalf of the RECIPIENT and pass-through PTMISEA funds to the RECIPIENT to allow for the implementation of the PROJECT; and

WHEREAS, the RECIPIENT will be completing an allocation request for PTMISEA funds and will transmit it to the DISTRICT so the DISTRICT will be able to pass-through \$187,181 of PTMISEA funds to the RECIPIENT for the implementation of the PROJECT; and

WHEREAS, the RECIPIENT has secured and will provide in full the local match for the PROJECT as stated in its application, which is included in Appendix A and is incorporated in this MOU by reference; and

WHEREAS, C/CAG has allocated \$6,000 in State Transit Assistance ("STA") funds as compensation to the District for its administrative expenses related to this MOU; and

WHEREAS, the DISTRICT and the RECIPIENT desire to enter into the following formal contract pursuant to the aforementioned funding for implementation of said PROJECT.

NOW, THEREFORE, BE IT RESOLVED that the DISTRICT and the RECIPIENT agree to the following:

I. PURPOSE

The purpose of this MOU is to memorialize the understanding between the DISTRICT and the RECIPIENT pursuant to which the DISTRICT passes-through PTMISEA funds to the RECIPIENT specifically intended for the implementation of the PROJECT. The funds the DISTRICT passes-through to the RECIPIENT for the foregoing purpose is specifically contingent upon the DISTRICT's receipt of the PTMISEA funds. The DISTRICT will serve as the recipient and pass-through agent of the PTMISEA funds and the RECIPIENT will serve as the project manager for the PROJECT and be responsible for ensuring that the PROJECT is coordinated with the DISTRICT and any other applicable project partner. The RECIPIENT will also be responsible for obtaining any required approvals from the District as contained in the District's concurrence letter for the PROJECT included in Appendix B and incorporated in this MOU by reference.

II. COMPLIANCE

A. The RECIPIENT shall comply with all policies and requirements of the LTP, and the Proposition 1B PTMISEA program from the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.

B. The RECIPIENT shall comply with any and all laws, statutes, ordinances, rules, regulations, or requirements of the federal, state, or local government, and any agency thereof, which relate to or in any manner affect the performance of this MOU.

C. Those requirements imposed upon the DISTRICT as the PROJECT "Sponsor" are hereby imposed upon the RECIPIENT.

III. SCOPE OF WORK

A. The RECIPIENT shall provide improvements through the PROJECT in accordance with the grant application, which is attached in Appendix A to this MOU.

B. The RECIPIENT shall be responsible for the completion of semi-annual reports in the format required by the California Department of Transportation, Division of Mass Transportation ("DMT"). The RECIPIENT shall notify the DMT of PROJECT completion either by letter or E-mail and shall submit to DMT, within six (6) months after the PROJECT is complete a short summary of the PROJECT. The RECIPIENT shall also submit copies of all reports and notices to the DISTRICT no later than 15 days prior to the due dates established by the DMT. Failure of the RECIPIENT to provide required reports and notices within the time parameters required by this MOU may be grounds for termination in accordance with Section IX of this MOU.

C. In addition to those reporting requirements set forth in subsection B., the RECIPIENT shall comply with any and all reporting required by the DISTRICT and/or C/CAG. Copies of all reports and notices shall be forwarded by the RECIPIENT to the DISTRICT no later than 15 days prior to the due dates.

D. Prior to the award of a construction contract and pass-through of construction funding, the DISTRICT shall have the right to provide final approval of

plans for the PROJECT, including any shelter locations and design. Such approval must be provided in writing from the DISTRICT'S Deputy CEO Operations, Engineering and Construction, or his designee, prior to the construction of the PROJECT.

E. The RECIPIENT shall maintain the PROJECT according to the standards provided by the DISTRICT. Should the PROJECT not be maintained according to such standards, the DISTRICT shall advise the RECIPIENT in writing of the need for corrective action. If such corrective action has not been taken within thirty (30) days from the date of the notice, the DISTRICT shall cause the required corrective action to be taken and the RECIPIENT shall reimburse the DISTRICT for the expense incurred.

F. Should an asset included as a part of the PROJECT be sold or otherwise retired prior to the end of its useful life, the RECIPIENT shall be responsible for any penalties and/or payments required by legislation and/or funding agency policies related to the LTP funding program.

IV. FINANCIAL:

A. The DISTRICT has no obligation to provide funds in excess of the \$187,181 amount awarded to the RECIPIENT from the LTP, unless there is approval of additional grant funding for the PROJECT and both parties execute a written amendment to this MOU to reflect any additional funding.

B. The DISTRICT shall agree to provide such PTMISEA funds required for implementation of the PROJECT to the RECIPIENT on a reimbursement basis.

C. The DISTRICT shall not be required to provide such PTMISEA funds to the RECIPIENT until after said funds are received by the DISTRICT.

D. The DISTRICT agrees to make payments to the RECIPIENT on a quarterly basis in arrears of the RECIPIENT's incurring of expenses related to the PROJECT.

1. The RECIPIENT shall submit quarterly invoices to the LTP Program Administrator at C/CAG within 30 days after the end of each quarter for which payment is sought covering costs for PROJECT activities accomplished through the end of such quarter, not covered by previously submitted invoices.

2. Each quarterly invoice for these payments shall be supported by the following information: a brief narrative progress report, the total costs expended for the PROJECT during the preceding quarter, the dollar amount of PTMISEA funds requested for reimbursement, total costs expended for the PROJECT to date, the total amount paid by the DISTRICT under this MOU to date, copies of invoices and other expense records justifying the request for reimbursement, and any additional supporting data required by the DISTRICT and/or C/CAG. The amount of PTMISEA funds requested for reimbursement in each quarterly invoice shall not exceed the proportion of PTMISEA funds to the total cost of the PROJECT.

3. Following review and approval of the RECIPIENT's invoice by C/CAG'S LTP Program Administrator, the invoice shall be forwarded by C/CAG to the DISTRICT for payment.

4. Payment shall be made to the RECIPIENT by the DISTRICT within 30 days following receipt of an approved invoice from C/CAG.

E. Auditing: The RECIPIENT agrees to grant the DISTRICT, the State of California, C/CAG, and/or their authorized representatives access to the RECIPIENT's books and records for the purpose of verifying that funds are properly accounted for and proceeds are expended in accordance with the terms of this agreement. All documents shall be available for inspection at any time while the PROJECT is underway and for the retention period specified in below Section IV.G.

F. If, as a result of any audit, it is determined that reimbursement of any costs was in excess of that represented as a basis for payment, RECIPIENT agrees to reimburse the DISTRICT for those costs within 60 days of written notification by the DISTRICT. The RECIPIENT will also be responsible for any other costs resulting from such overpayment, as specified below in Section IV.I.

G. The RECIPIENT will be solely responsible for maintaining all applicable records for a minimum of 3 years following final payment to the RECIPIENT or 4 years following the fiscal year of the last expenditure under this MOU, whichever is longer, in accordance with generally accepted accounting principles. For capital assets, applicable records shall be maintained for 3 years from the date of the asset's disposition, replacement, or transfer. Copies of the RECIPIENT's audits, if any, performed during the course of the PROJECT and at PROJECT completion shall be forwarded to the DISTRICT no later than 180 days after the close of the fiscal year during which the audit was performed.

H. The RECIPIENT agrees to use funds received pursuant to this MOU only for the PROJECT.

I. In the event the RECIPIENT fails to comply with the terms and conditions of this MOU or any requirements of the LTP, DMT, PTMISEA, and/or C/CAG, the RECIPIENT shall be wholly responsible for any consequences associated with non-compliance, including but not limited to, repayment of PTMISEA funds, including any penalties and/or interest on the funds.

V. AMENDMENTS

This MOU can be amended, modified, or supplemented only in writing signed by both parties.

VI. NOTICES

A. All notices and communications deemed by either party to be necessary or desirable shall be in writing and may be given by personal delivery to a representative of the parties or by mailing the same postage prepaid, addressed as follows:

If to the DISTRICT:

San Mateo County Transit District
Attn: Director, Budgets and Grants
1250 San Carlos Avenue
San Carlos, CA 94070-1306

If to the RECIPIENT:

City of Daly City
Attn: City Manager
333 90th Street
Daly City, CA 94015

B. The address to which mailings may be made may be changed from time to time by notice mailed as described above. Any notice given by mail shall be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

VII. ASSIGNMENT AND TRANSFER

Neither party shall assign, transfer, or otherwise substitute its interest in this MOU, nor its obligations, without the prior written consent of the other party.

VIII. DISPUTE RESOLUTION

The parties agree that any dispute arising from this MOU that is not resolved within 30 days by the parties' representatives responsible for the administration of this MOU will be set forth in writing to the attention of the DISTRICT's Director, Budgets and Grants and the RECIPIENT's City Manager for resolution. In the event resolution cannot be reached, the parties may submit the dispute to mediation by a neutral party mutually agreed to by the parties hereto prior to initiating any formal action in court.

IX. TERMINATION

The DISTRICT may terminate this MOU without cause upon 30 days prior written notice. If the DISTRICT terminates this MOU without cause, the RECIPIENT will be entitled to payment for costs incurred up through the effective date of termination, up to the maximum amount payable for the quarter in which the MOU is terminated.

X. INDEMNIFICATION

A. The RECIPIENT shall defend, indemnify, and hold harmless the DISTRICT, its officers, directors, representatives, agents and employees from and against all claims, injury, suits, demands, liability, losses, damages and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any negligent or otherwise wrongful act or failure to act of the RECIPIENT, its officers, directors, employees, agents, or contractors or any of them in connection with this MOU or the PROJECT. In the event of termination, the RECIPIENT shall also defend, indemnify, and hold harmless the DISTRICT, its officers, directors, representatives, agents and employees from and against all claims, suits, or demands from the State of California for reimbursement of PTMISEA funds attributable to PROJECT costs incurred subsequent to termination.

B. This indemnification shall survive termination or expiration of this MOU.

XI. Term

A. This MOU shall remain in effect until June 30, 2013. It is understood by the parties that upon termination of the PROJECT or this MOU, the provisions of Section IV,

Section X and Appendices A and B shall remain in full force and effect until all applicable grant obligations have been satisfied.

IN WITNESS WHEREOF, the parties have executed this MOU on the dates set forth below.

City of Daly City

San Mateo County Transit District

By: _____

By: _____

Michael J. Scanlon
General Manager/CEO

Date

Date

APPROVED AS TO FORM:

Attorney

Date

Appendix A – LTP Application

Lifeline Transportation Program Funding Application

A. General Project Information

Project Sponsor

Name of the organization City of Daly City

Contact person Joseph Curran

Address 333 90th Street
Daly City, CA 94015

Telephone number (650) 991-8126

Fax number (650) 991-5759

E-mail address jcurran@dalycity.org

Other Partner Agencies

<u>Agency</u>	<u>Contact Person</u>	<u>Address</u>	<u>Telephone</u>
<u>City of Brisbane</u>	<u>Randy Breult</u>	<u>50 Park Place, Brisbane</u>	<u>(415) 508-2130</u>
<u>SamTrans</u>	<u>Ross Weir</u>	<u>1250 San Carlos Ave., San Carlos</u>	<u>(650) 508-6410</u>

Project Type: *Check one.*

☐ Operating ☒ Capital ☐ Both

Brief Description of Project:

The project is a new bus shelter and access improvements for the SamTrans southbound bus stop on Bayshore Boulevard, just south of Geneva Avenue. This bus stop serves Daly City's Bayshore neighborhood and is currently located in an unimproved area along Bayshore Boulevard.

Budget Summary

	\$	% of Total Project Budget
Amount of Lifeline funding requested:	\$187,180.50	80%
Amount of local match proposed:	\$47,561.15	20%
Total project budget:	\$234741.65	100%

B. Project Eligibility

The project provides a bus shelter and access improvements at a SamTrans bus stop on Bayshore Boulevard south of Geneva Avenue. The bus stop serves Daly City's Bayshore neighborhood, an area recognized as a Community of Concern by the Metropolitan Transportation Commission. The proposed project was identified as the number one Recommended Transportation Strategy in the Bayshore Community-Based Transportation Plan in 2008.

There are currently no SamTrans or Muni shelters anywhere within or proximate to the project area. In 2007, there was an average of 126 daily riders boarding at the Bayshore and Geneva Avenue bus stop in the southbound direction.

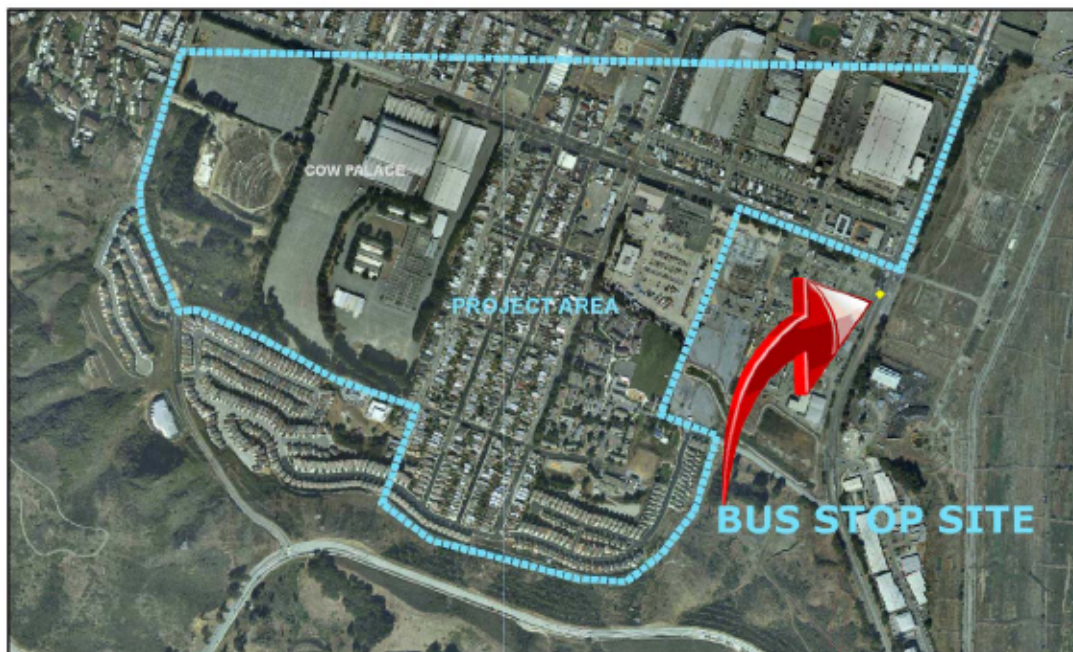
Because this project corrects a deficiency identified as the top priority in the Bayshore Community-Based Transportation Plan and it will benefit a recognized Community of Concern, it is eligible for San Mateo County Lifeline Transportation Tier 2 funds.

C. Project Narrative

Project Need/Goals and Objectives

The unmet transportation need that the proposed project seeks to address is correcting a deficient bus stop by providing an accessible, sheltered stop to serve riders boarding southbound buses on Bayshore Boulevard immediately south of Geneva Avenue. Riders currently wait at an unpaved bus stop. The stop is frequently muddy, inhospitable and unprotected from the ubiquitous winds that blow in the Bayshore neighborhood. Additionally, the bus stop is in an area that does not meet accessibility standards. The stop lacks both sidewalks and ramps, presenting obstacles for mobility challenged riders.

FIGURE 1 – Bayshore Community-Based Transportation Plan Project Area



Project Need/Goals and Objectives (continued)

Approximately 130 riders currently board SamTrans buses at the site of the proposed shelter and accessibility improvements. The vast majority of the riders live in Daly City's Bayshore neighborhood, a Community of Concern.

The main goal of this project is to provide an accessible, sheltered bus stop. Transit users from the Bayshore neighborhood have sought improvements to the southbound SamTrans bus stop on Bayshore Boulevard for many years. It was the overwhelming priority identified in the Bayshore Community-Based Transportation Plan. One of the objectives of the project is to remove barriers that currently prevent or dissuade potential riders from using the SamTrans service intended to serve their community. It is hoped that improving the project location will increase the number of boardings at the bus stop.

Community-based Transportation Plan Priority

The Bayshore Community-Based Transportation Plan was completed in May 2008. The plan was the culmination of many stakeholder meetings, a multi-lingual neighborhood transportation survey, and a thorough assessment of existing conditions and identified needs. The proposed project was repeatedly identified as a need in all discussions within the area. Strategy #1 of the Plan is Enhanced SamTrans Transit Stops. The Southbound stop at Bayshore Boulevard and Geneva Avenue emerged throughout the outreach process as the highest priority SamTrans stop for improvements. This stop has the highest ridership of SamTrans stops in the neighborhood with an average of 126 daily riders (Route 292 and Route 397 combined). The stop is located just south of the 7 Mile restaurant is not connected to Geneva Ave with a sidewalk. Adding a sidewalk is possible by removing existing diagonal parking in front of the restaurant and resistance from the restaurant owner is possible. In addition, this bus stop is located in the City of Brisbane. Residents also requested the installation of bicycle racks at this specific bus stop.

The proposed project is just outside the boundaries of the Bayshore Community-Based Transportation Plan area, but it is a bus stop that is widely used by residents who live within the plan area.

Providing a shelter and enhancing the transit stop amenities and information at bus stops would improve the passenger experience at those stops. SamTrans bus riders would feel more comfortable and safe waiting for their bus. Additionally, project area residents would have better access to transit information through an information display within the shelter. The visibility of the bus stops would also improve the image of transit in the area, which would attract new and retain existing riders.

Implementation Plan

The City of Brisbane would be the lead agency in the design and project management phase of the proposed improvements. The project area lies mostly within the city limits of Brisbane. A very small part of the project area is located within the city limits of Daly City.

Brisbane's Director of Public Works/City Engineer, Randy L. Breault, M.S.E., P.E., would be the project manager. He would be assisted by Daly City's Public Works Department, including the City's Principal Engineer, Robert Ovadia, P.E. and Public Works Director John Fuller, P.E. All personnel assigned to this project are experience, qualified, and credentialed. The proposed scope of work is not unlike work routinely performed on both Brisbane and Daly City.

Both Brisbane and Daly City have the institutional capacity to deliver the project as described. SamTrans has already provided the technical requirements for its bus stops. Staff from both agencies have experience in designing and managing large scale concrete and asphalt projects in their respective cities.

The City of Brisbane's Director of Public Works/City Engineer will serve as the project manager. The preliminary design of the project is complete. If the project is funded through the Lifeline Transportation Program, a scope of work will be prepared along with a request for proposals in early Spring 2010. The bid would be awarded by the City of Brisbane and the project managed in full cooperation with the City of Daly City. The project could be completed by the end of the Second Quarter, 2010.

About one quarter of the households in the Bayshore neighborhood have annual incomes between \$50,000 and \$75,000. The percentage of households with incomes less than \$50,000 annually is slightly higher in the Bayshore area (39%) than in Daly City (37%) and San Mateo County (33%). Twelve percent (12%) of Bayshore households have annual incomes under \$15,000, as compared to 9% and 7% of households in the City and County respectively. Although this project would not result in more frequent SamTrans service, it is reasonable to assume that more residents would take advantage of existing service if the bus stop was safer and more accessible to all potential riders.

The proposed project is in close proximity to the 7-Mile House, a celebrated Brisbane dining establishment. Staff from Brisbane's Public Works Department met with the proprietors of the landmark eatery to explain the scope of the project. One of the challenges of the project is to provide an accessible bus shelter without adversely affecting the restaurant's business. The owners of the 7-Mile House are amenable to the proposal.

The project is substantially ready to be implemented. Only a few minor alterations need to be made to the design for the project to be fully compliant with the SamTrans bus shelter standards. There are no major issues that need to be resolved prior to the implementation of the project. Components of the proposed project include:

- Extending the existing 10' wide sidewalk within Daly City to a join with the north end of 7-Mile House.

Implementation Plan (continued)

- From this point, continuing southerly with a 5' wide sidewalk (now within City of Brisbane) that diverts around the 7-Mile house outside seating area.
- Ending the sidewalk (and ADA ramp) at the northern limit of the 90' paved area for the new stop.
- Minor safety improvements include refreshing the now faded curb shoulder line for the travel lanes, and striping the parking area to assist vehicles with staying out of the bus stop (which will be signed No Parking).

Coordination and Program Outreach

The City of Daly City will initiate a communication to the residents of the Bayshore neighborhood and will utilize the existing social services infrastructure as an information conduit to the community, including food distribution programs, day care providers, the Boys and Girls Club, San Mateo County Housing Authority, schools, and Parks and Recreation programs. Additionally, the City will coordinate with the two Bayshore Residents Association and the Midway Village Residents Association. Midway Village is a housing complex located in the Bayshore Community-Based Transportation Plan area, between the Cow Palace and Highway 101, adjacent to the Pacific Gas and Electric Company (PG&E) site. Midway Village was built in the late 1970's and is owned and operated by the San Mateo County Housing Authority. The 150 units are occupied by 1200 residents, primarily people of color.

If the project is awarded Lifeline Transportation funding, it will be highlighted on the City's website, community newsletter, and government access cable television station. The City of Daly City will make every reasonable effort to inform the residents near the project area of the enhancements.

Program Effectiveness

The proposed project site has been studying and evaluated many times in the past 8 years. It is clear that the existing situation is a disservice to the community and needs to be addressed. One of the obstacles to upgrading the bus stop has been its unique geographic location. It is situated wholly in Brisbane, but serves residents in Daly City. It would be highly unusual for a municipality to invest limited resources in a project that would primarily benefit residents from *another* jurisdiction. It would be equally unlikely for a municipality to spend limited resources making infrastructure improvements *outside* of its jurisdiction. Therein lies the inimitability of this project. It is entirely appropriate to complete this project with Lifeline Transportation funding.

The need for this project has long been identified, and was even validated as the number one priority if the Bayshore Community-Based Transportation Plan. If one of the goals of the project is to make the bus stop more accessible, it will be possible to measure the effectiveness of the project by tracking the number of passengers boarding at this location. Providing a paved surface and shelter would also address the objective of protecting riders from the ravages of mud and wind, conditions that current riders currently tolerate.

Program Effectiveness (continued)

The cities of Brisbane and Daly City, along with SamTrans will cooperatively engage in long-term, ongoing monitoring of the project. Once the project is complete, it should readily achieve its goals and objectives. If for, for some unforeseeable reason, the project is deemed to be unsatisfactory, the parties can work together to identify potential solutions to the perceived shortcomings.

The project *will* benefit low-income residents in the area. The best way to measure the effectiveness and magnitude of the project's impact will be to track ridership statistics. Secondly, the City could survey the neighborhood to measure the impact, if any, the project has had on individual households.

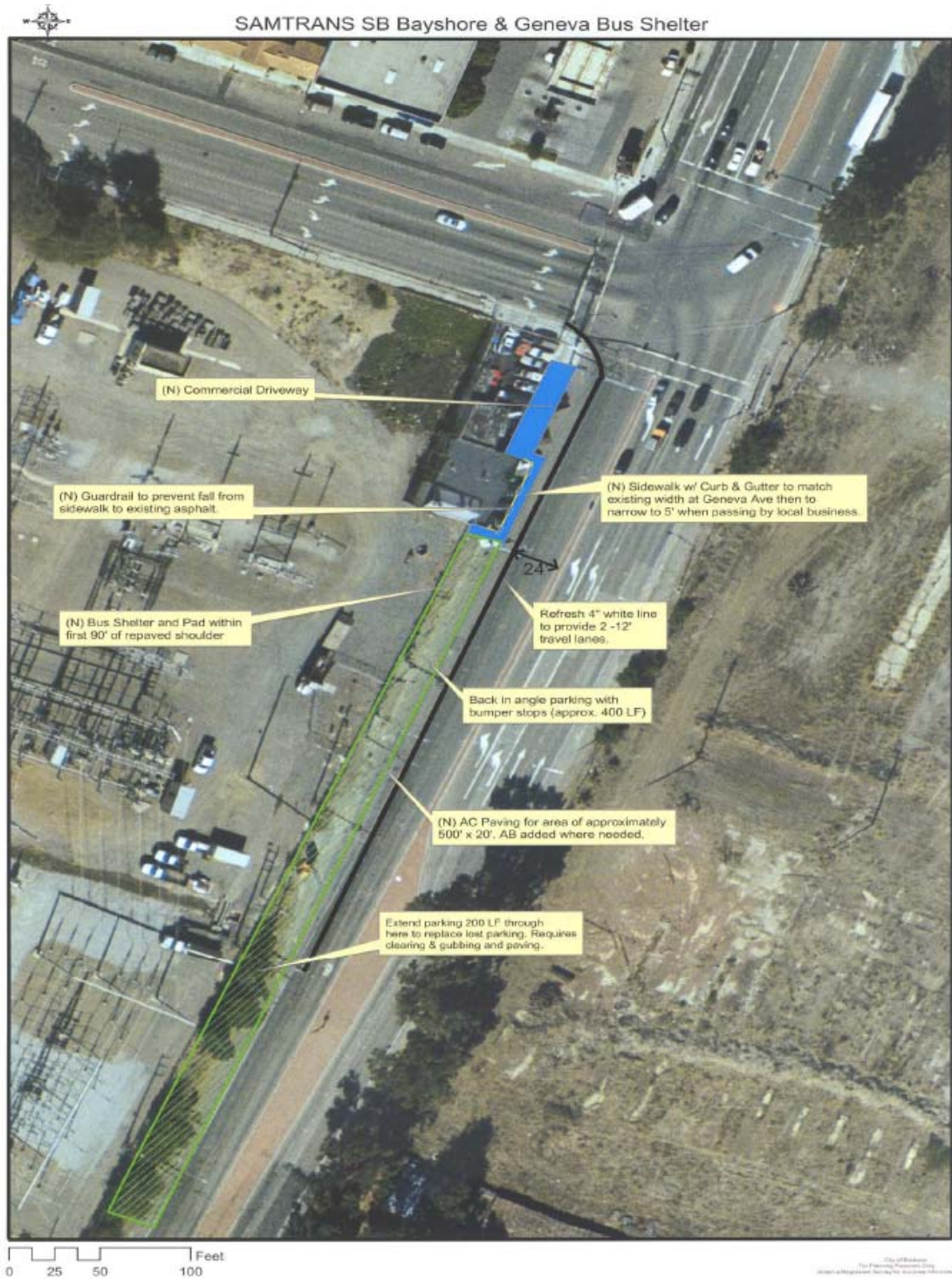
D. Budget

Project Budget/Sustainability

The budget should be in the following format:

Revenue	Year 1			TOTAL
Lifeline Program Funds	\$187,180.50			
City of Brisbane	\$35,996.25			
City of Daly City	6,000.00			
SamTrans	5,564.90			
TOTAL REVENUE	\$234,741.65			
Expenditures	Year 1			TOTAL
Operating Expenses	0			
Capital Expense	\$192,745.40			
Administrative Expenses	\$41,996.25			

The City of Daly City, SamTrans, and the City of Brisbane are all committed to the maintaining the project site. SamTrans has a practice of maintaining its bus shelters, while Daly City and Brisbane both have track records for maintaining streets, curbs, gutters, ramps, and sidewalks.



Appendix B – Letters of Support

December 15, 2009

Mr. Joseph Curran
City Manager
City of Daly City
333 90th Street
Daly City, CA 94015

RE: Application for Funding under San Mateo County Lifeline Transportation Tier 2 Program for FY 2010 through FY 2011

Dear Mr. Curran,

This letter is written to confirm that that the San Mateo County Transit District (District) will assist your agency by applying for and passing through Lifeline Transportation Program (LTP) funding that the City is not eligible to receive directly. We understand that the City will utilize the LTP funds to provide a bus shelter and access improvements to the SamTrans southbound bus stop on Bayshore Blvd, just south of Geneva Ave, should the LTP funding request be approved by the San Mateo City/County Association of Governments.

Our assistance carries with it the following responsibilities and requirements by the City:

- Execution of an MOU with the District that will contain terms and conditions associated with the LTP program. Ultimately, the City is responsible for all requirements of the funding passed through by the District. In the event the City fails to comply with such terms and conditions, the City will wholly be responsible for any consequences associated with non-compliance, including but not limited to repayment of funds to the grant agencies;
- Completion of any required applications and ongoing reporting requirements. The District will submit applications and reports prepared by the City on the City's behalf;
- Coordination by the City with the District for the design and installation of the bus stop improvements;
- Remittal of invoices for payment will need to be approved by C/CAG before forwarding them to the District for reimbursement, and reimbursement by the District will be contingent upon receiving required reports from the City in a timely manner;
- Allocation of \$6,000 by the City from either the pass-through funds or some other local source to pay for the District's administrative costs associated with the pass-through assistance.

Thank you for coordinating with the District. We look forward to working with you on this valuable program to support mobility by low income residents.

Sincerely,

Chuck Harvey
Deputy CEO

cc: Jean Higaki, Transportation Systems Coordinator, C/CAG
Joel Slavit, Manager, Capital Programming and Grants
Rebecca Arthur, Senior Grants Analyst



BOARD OF DIRECTORS 2009

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MICHAEL J. SCANLON
GENERAL MANAGER/CEO

December 1, 2009

Joseph Curran
Assistant to the City Manager
City of Daly City
City Hall, Third Floor
333 90th Street
Daly City, CA 94015-1895

**RE: Application for Funding under San Mateo County Lifeline Transportation
Tier 2 Program for FY 2010 through FY 2011**

Dear Mr. Curran:

This letter confirms that that the San Mateo County Transit District (District) agrees to sponsor the Bayshore Bus Stop Improvement Project, should it be approved for funding by the San Mateo City/County Association of Governments.

Our sponsorship carries with it the following responsibilities and requirements:

- Execution of an MOU with the District. The staff contact is Rebecca Arthur, Senior Grants Analyst.
- Completion of any required applications and ongoing reporting by the City of Daly City. The District will submit applications and reports prepared by the City on your behalf.
- Invoices for payment will need to be approved by C/CAG before being forwarded to the District for payment.
- Payment of invoices will be contingent upon receiving required reports in a timely manner.
- The City will need to allocate \$6,000 from either their pass-through funds or some other local source to pay for our administrative costs related to passing through funds.

SAN MATEO COUNTY TRANSIT DISTRICT
1250 San Carlos Ave. – P.O. Box 3006
San Carlos, CA 94070-1306 (650)508-6200



City Council Agenda Report

Item # _____

Meeting Date: January 10, 2011

Subject: Accept and Appropriate a Public Library Staff Education Program Grant

Recommended Action

It is recommended the City Council authorize the City Manager to continue a grant agreement for a Library Technology Services Act grant in the amount of \$4,464 from the California State Library.

Background

The California State Library creates and manages a number of grant programs through the federal Library Technology Services Act (LSTA). One of these programs is the Public Library Staff Education Program. This program funds tuition expenses for California public library employees enrolled in a Master of Library Science degree programs. Library Assistant II Jessica Diaz successfully applied for a grant to reimburse her tuition expenses for Summer 2010, Fall 2010 and Spring 2011 classes at San Jose State University.

Discussion

This competitive program provides funding to California public and county law libraries to enable selected staff members to acquire the knowledge and skills needed to support valuable programs and services in their communities which relate to the priorities of LSTA. Jessica Diaz is the third Daly City Library employee to receive this funding in the past ten years.

Fiscal Impact

There is no cost to the City for this project other than for the grant reporting requirements to be submitted by the Library Director on a quarterly basis. Staff requests that the \$4,464 grant be appropriated to the Library's General Fund 01-120-120-4249 for disbursement.

Summary/Conclusion

Staff is available to provide any additional information desired by the Mayor or City Council Members.

Respectfully submitted,

Timothy Birch
Assistant to the Director, Library

Carol Simmons
Library Director



City Council Meeting Agenda Report

Item # _____

Meeting Date: January 10, 2011

Subject: Appropriation of Grant Funds for FY 2010-2011 for Healthy Aging Response Team Outreach Worker Hourly Wages

Recommended Action

Appropriate \$44,000 in the Senior Services fund for the period July 1, 2010 through June 30, 2011 to provide monies for Healthy Aging Response Team (HART) language outreach workers to work in the community and accept grant funds totaling \$44,000.

Background

The Daly City Partnership and the Supporters of Doelger Senior Center, Inc. received grant funding from the Woodlawn Foundation (\$30,000), Serramonte Center (\$3,000), and Kaiser Permanente (\$11,000) for community outreach activity for the HART program. These grant funds would be used for language translation outreach workers. The City will provide the service with City part-time staff Senior Services Fund.

Fiscal Impact

No City funds are required for this new activity. \$44,000 in grant funding will be received into Account 15-132-460-3796 from the Partnership and Supporters to reimburse the City for the costs of the hourly language translation outreach workers.

Summary/Conclusion

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

Sue Horst
Neighborhood Services Manager

Mike Stallings
Director, Parks and Recreation

Attachments: Budget Adjustment Form

Department/Division: Parks & Recreation / Senior Services **Date:** 11/18/2010

Month/Fiscal Year: November-10

Department/Division: Parks & Recreation / Senior Services **Date:** 11/18/2010

Month/Fiscal Year: November-10

Supporters of Doelger Senior Center received a \$3,000 grant from Daly City Serramonte Center which will be applied to hourly wages of outreach workers. This budget transfer is requested for the purpose of moving funds into 15-132-460 hourly wages and fringe benefits.

[illegible]

Luc Hout / dp

Originator

MSH

Department Head

DN/MV

Director of Finance

City Manager / City Council

Department/Division: Parks & Recreation / Senior Services **Date:** 11/18/2010

Month/Fiscal Year: November-10

Daly City Peninsula Partnership received a \$20,000 grant from Kaiser Permanente - San Mateo Area of which \$18,000 is allotted for Project HART - Healthy Aging Response Team Program. This budget transfer is requested for the purpose of moving \$11,000 into 15-132-460 hourly wages and fringe benefits to cover a portion of the cost of outreach workers.



 Originator


 Department Head



Director of Finance

City Manager / City Council

City of Daly City Budget Transfer/Adjustment

Account Number

Account Name

Program/Project Name

Amount

Use of Funds:

15 - 132 - 460 - 4102
15 - 132 - 460 - 4104
15 - 132 - 460 - 4106
15 - 132 - 460 - 4107

Hourly Wages
PERS
Workers Comp
Medicare

Senior Adults
"
"
"

\$ 8,523
\$ 1,681
\$ 672
\$ 124

Finance Only: Budget Balance	
Before	After
\$ 15,053.64	\$ 23,576.64
24,366.95	26,047.95
8,153.59	8,825.59
568.11	692.11

Source of Funds:

Total Use of Funds

\$ 11,000

\$

Reduced Expenditures:

New Revenues/
Fund Balance:

15 - 132 - 460 - 3796

Reimbursement

Senior Adults

\$ 11,000

\$ 57,698-

\$ 68,698-

Total Source of Funds

\$ 11,000

\$

\$

For Capital Projects Only - Transfer of Funding Between Projects

From Account Number

Name/Type Code

Amount

To Account Number

Name/Type Code

Amount

- - -
- - -
- - -
- - -
- - -

/
/
/
/
/

- - -
- - -
- - -
- - -
- - -

/
/
/
/
/

Total \$

Finance Only: *OK* 12/19/10
Verified By/Date

Entered By/Date

Audited By/Date

Document No.



City Council Agenda Report

Item # _____

Meeting Date: January 10, 2011

Subject: PUBLIC HEARING: SUPPLEMENTAL LAW ENFORCEMENT SERVICE (SLES) FUNDS

Recommended Action

Conduct a public hearing to accept a grant for \$130,355.00 for the recommended funding of a Crime Analyst position and partial funding for a Public Safety Communications Supervisor, as well as the purchase of a Mobile Law Enforcement License Plate Recognition Camera System; and further, appropriate this amount to the State of California "Citizens' Option for Public Safety—Supplemental Law Enforcement Services" (COPS – SLES) budget.

Background

The State of California has announced the availability of funding under the COPS Program to supplement existing police services and equipment needs. Funds cannot be used to supplant existing budgeted items and/or positions. Also, the funds cannot be used for administrative overhead costs in excess of 5 percent, nor can the funds be used for any construction project that does not directly support "front-line" law enforcement. All jurisdictions receiving funding are required to conduct one public hearing on the use of the grant monies. This is the thirteenth consecutive year that the City of Daly City has been eligible to receive an award under this program.

Discussion

The award amount is \$130,335.00 for Fiscal year 2010-11. The spending plan for the FY 2009-10 allocation was projected through September 17, 2010. A summary of the Police Department's proposed expenditure program and expense plan is as follows:

- **Crime Analyst-- \$99,193.02**

Funding will be used for Salary and Benefits to continue funding a non-sworn Crime Analyst. Such a position will continue to provide front-line police personnel with timely and accurate information and intelligence necessary to reduce crime. Funding for this position from the FY 2009-10 COPS-SLES grant expired on September 17, 2010. Continued funding at the amount requested will allow the position to continue through July 22, 2011.

- **Public Safety Communications Supervision--\$11,017.00**

Funding will be used to partially fund a Supervising Public Safety Dispatcher. Funding for this position from the FY 2009-10 COPS-SLES grant expired on September 17, 2010. Continued funding at the amount requested will provide for supervision through July 22, 2011.

PUBLIC HEARING: SUPPLEMENTAL LAW ENFORCEMENT SERVICE (SLES) FUND

MEETING DATE: January 10, 2011

Page 2 of 2

- **Mobile Law Enforcement License Plate Recognition Camera System--\$20,124.98**

Funding will be used to purchase a Mobile Law Enforcement License Plate Recognition Camera System, ("License Plate Reader"), which is a device that directly interfaces with state and national stolen vehicle databases for instant notification of stolen vehicles. A license plate reader will greatly improve stolen vehicle identification and recovery results. In addition to locating stolen vehicles, the device can be used to detect wanted felons, Be On the Lookout's (BOLO's) and Amber Alerts, sexual predators and for surveillance and investigation purposes. The cost includes equipment, installation and training.

Fiscal Impact

No matching funds are required for this grant. Grant funding is proposed for use here because of the importance of both positions identified. This grant funding will sustain these positions through FY 2010-11 and partially through FY 2011-12. The license plate reader is a non-budgeted item and will be a valuable investigative tool for the Department. Because of the uncertainty of the State's budget, future funding for these positions may be in jeopardy. If alternative funding were to become available to maintain the identified positions, future SLES funds could be used to meet other department needs.

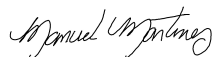
Summary/Conclusions

Staff recommends that the expenditure plan be approved.

Staff is available to provide any additional information desired.



Eric Wollman
Captain



Manuel Martinez Jr.
Chief of Police



City Council Agenda Report

Item # _____

Meeting Date: January 10, 2011

**Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820
New Clearwire Wireless Facility - 99 Elmwood Drive**

Recommended Action

Approve Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 and environmental assessment subject to the findings and conditions outlined herein.

Planning Commission Discussion

On December 7, 2010 the Planning Commission voted 4-0 to allow the co-location of a new Clearwire wireless facility at 99 Elmwood Drive. The applicant, Charnel James, of NSA Wireless Representing Clearwire, spoke in favor of the project. The following members of the public spoke against the project:

Yu-Charn Chen, resident, 99 Elmwood Drive

Tom Jacobson, resident, 92 Elmwood Drive

Michael Luks, resident, 991 Maddux Drive

Mrs. Chen, resident, 94 Elmwood Drive

Introduction

The applicant, NSA Wireless representing Clearwire, is requesting approval of Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 to construct a steeple on the roof of the main church building at the existing Westlake Community Baptist Church building at 99 Elmwood Drive (See Attachment A- Location Map). The steeple, consisting of a cupola and a cross, would house a new Clearwire wireless facility. The proposal is a co-location as a third facility at the site. Both MetroPCS and T-Mobile cellular service providers are already located at the site in the existing bell tower structure. As proposed, the Clearwire antennas would be fully integrated into the new steeple structure and would not be visible from the adjacent streets or properties.

Background

The applicant is seeking to create a new wireless network and is proposing the site as a co-location and to ultimately provide coverage in the Highway 35, Westlake, and John Daly Boulevard Corridor. In 2006, the City Council approved a MetroPCS and T-Mobile co-location within the existing 57 foot tall bell tower. (See Attachment B- PhotoSimulations). The facility proposed by Clearwire requires more space than the existing bell tower would allow, therefore the applicant has proposed the matching steeple to accommodate the installation.

City Council Agenda Report

Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 - New Clearwire Wireless Facility. 99 Elmwood Drive

Meeting Date: January 10, 2011

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PROJECT EVALUATION

Discussion

The project site is a parcel owned by the Westlake Community Baptist church located on the east side of Elmwood Drive. Our Lady of Mercy Church and parochial school are adjacent to the church on the north and east. The remainder of adjacent properties to the south and west are single-family detached homes.

Location: Land Use	Zoning
North and East: Church and parochial school	R-1 (Single Family Residential)
South and West: Single-family homes	R-1 (Single Family Residential)

Project Description

The proposal consists of installing three parabolic antennas and three panel antennas inside a new steeple. The applicant would construct the new steeple on the gable peak of the building. The applicant would also install a 64 square foot equipment cabinet enclosure consisting of a 6 foot tall wall with stucco and paint to match the existing church building at grade. The enclosure will be located at the back of the church building at grade. The equipment will be completely within the proposed enclosure fully screened from adjacent areas. (See Attachment C-Plans)

Use Permit

Wireless communications structures in the Single Family Residential zone require a use permit. The purpose of the use permit is to ensure that new structures will not have an adverse effect on surrounding properties. Use Permits for wireless communications facilities automatically expire ten years after approval but may be renewed for additional ten-year periods.

The proposed wireless facility is a “co-located” facility whereby more than one wireless service provider is located at the same site. The current Clearwire application would add a third wireless facility in addition to the existing MetroPCS and T-Mobile facilities. The Zoning Ordinance encourages co-location because it reduces the overall number of telecommunications facility sites within a specific geographic area, thereby reducing the cumulative visual impact that these facilities could cause were they built separately.

Electromagnetic Frequency Radiation

Pursuant to Zoning Ordinance, wireless communication facilities operating alone and in conjunction with other telecommunications facilities shall not generate electromagnetic frequency (EMF) radiation in excess of the standards for permissible human exposure to EMF as adopted by the Federal Communications Commission (FCC). A report was provided with the application that includes the proposed site operating in conjunction with the other two carriers already located at the

City Council Agenda Report

Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 - New Clearwire Wireless Facility. 99 Elmwood Drive

Meeting Date: January 10, 2011

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site. The exposure study is in compliance with City requirements and that has concluded EMF exposure caused by the proposed facility is expected to be well below the public exposure limit.

Staff has included in the Conditions of Approval the requirement for annual EMF study submittals for the facility to ensure ongoing compliance.

Discussion occurred with the members of the public present and the Commissioners regarding Electro Magnetic Frequency Radiation (EMF). Mr. Chen, Mr. Jacobson, Mr. Luk and Mrs. Chen all voiced concerns regarding the EMF and their views on the health impacts to the nearby residents, their own children and children in the school adjacent the property. Commissioners Edeleman, Bautista and Lubiano asked questions regarding EMF of the applicant and staff.

Staff explained that the proposed project met Daly City Code and FCC requirements for EMF and that the FCC has pre-empted local jurisdictions from regulating EMF's beyond the FCC requirements. And that the facility cumulatively was 1.5% of the allowable FCC Public Exposure Limit according to the EMF report. Staff also commented that the conditions of approval required annual EMF reports submittals.

Mr. Luk voiced concerns regarding the role of the church and the community and the business transaction component of the church and the carrier. Mr. Jacobson wanted to know the purpose of the proposed wireless site and voiced concerns about the business deal. Staff responded that the purpose was a use permit for the installation of a wireless facility that would provide wireless internet access service to the public and to be sure the use complied with Daly City Codes and applicable regulations. Staff informed the speaker that the private lease transaction (business deal) was not information the City was privy to or germane to the Use Permit.

Commissioner Lubiano referred to Condition #22 regarding the annual EMF report and wanted to be sure that it was from an independent third party. Staff responded stating that the EMF report had to be provided by an electrical engineer.

Commissioner Bautista asked staff what the noticing requirements were for nearby properties. Staff responded 300 foot radius and noticed in the newspaper 10 days prior to the hearing. Mr. Chen provided a handout regarding EMF. (Attachment D- Handout)

Architectural Design

Pursuant to Zoning Ordinance, both the Wireless Communication Facility and Design Review sections require an evaluation of the visual impact and the architectural design of the project.

The design of the proposed church steeple is architecturally compatible with the existing church building. Like the existing church and bell tower, the steeple would receive stucco siding, a composition shingle hip roof, and be painted a light tan color to match the church buildings. The antennas would be installed inside the steeple, and would not be visible from adjacent streets or properties. Additionally, the height of the steeple (at 46 feet to the top of the steeple) is in good

City Council Agenda Report

Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 - New Clearwire Wireless Facility. 99 Elmwood Drive

Meeting Date: January 10, 2011

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proportion to the existing church building (35 feet) and the existing bell tower (at 57 feet). Staff believes that the addition of the steeple will be architecturally beneficial to the church building, which provides architectural focal point commonly found in churches. Staff recommends that the proposed second cross not be included, as the steeple is proposed for construction more towards the rear of the building and the existing bell tower already has a cross. (See Attachment-B Photo-simulation)

To ensure that the windows within the steeple will be visually appealing, staff has added a Condition of Approval requiring a construction specification detailing the trim dimensions and how deep the background will be recessed from the front plane of the steeple walls. The Condition requires that trim shall be four inches in width and that the window background be recessed from the front plane of the steeple walls not less than six inches and/or to match the existing bell tower design features.

Staff has added a Condition of Approval requiring that the new steeple and the equipment enclosure receive roofing, stucco finish and color complementary to the building and acceptable to Planning Division staff. With regard to the steeple itself, staff has added the requirement that the steeple's roof eaves be not less than 18 inches, to provide sufficient architectural relief to the steeple top.

Commissioner Kelly stated that she agreed that the proposed cross should be removed. Commissioner Bautista commented that he liked the fact that the facility was stealthed and that a second cross was redundant.

Ms. James (Representing Clearwire) stated that the owner wants to keep the proposed cross. She also explained that the Clearwire service is a subscribe-able internet service and other carriers can subscribe to it to provide service to their clients.

ENVIRONMENTAL ASSESSMENT

CEQA Determination	Categorical Exemption per Section 15303: New Construction or Conversion of Small Structures
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Staff has reviewed the proposal under the requirements of the California Environmental Quality Act (CEQA) and has determined that the project, as conditioned, involves no significant expansion of use.

FINDINGS:

Staff finds that Use Permit UPR-10-10-2819, as conditioned, is in accordance with Section 17.39, Wireless Communication Facilities, of the Daly City Municipal Code. Approval of the Use Permit, as conditioned herein, conforms to all standards, requirements set forth in Municipal Code Section 17.39, and that general site and architecture considerations have been incorporated to insure compatibility with adjacent structures and to provide an attractive environment. Staff finds that the proposed Design Review DR-10-10-2820, as conditioned, is in accordance with Section 17.45,

City Council Agenda Report

Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 - New Clearwire Wireless Facility. 99 Elmwood Drive

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Design Review, of the Daly City Municipal Code. Approval of the design review, as conditioned herein, is in the best interest of the public health, safety, and general welfare of the community, and that the general site and architectural considerations have been incorporated to ensure compatibility with adjacent buildings and to provide an attractive environment. These findings are based in part on the following:

1. Use Permit, UPR-10-10-2819, proposing to of install three parabolic antennas and three panel antennas inside a new church steeple and a 64 square foot equipment cabinet enclosure with stucco and paint to match the existing church building conforms to all standards, requirements and conditions as defined in Daly City Municipal Code Section 17.39, Wireless Communications Facilities, in that the changes proposed do not interfere with views of the streetscape, natural vegetation and scenery; the siting of the telecommunications facility, is compatible in scale and design with its locale and is sited so as to minimize adverse visual impacts on natural resources, neighborhoods, vistas, view corridors, architecture and structures; have been designed and conditioned by this use permit and design review to minimize visibility from street level locations so as to minimize their visual impact.
 - a. The proposed wireless telecommunication facility with the conditions of approval does not significantly impact view corridors nor does it affect any scenic vista.
 - b. The associated antennas and equipment will be screened from the public right of way through design required by the conditions of approval for steeple and equipment enclosure to have matching roof materials and textured and painted to match the existing church buildings.
 - c. The proposal will not result in any significant visual impact as it is a stealth design that matches the existing architectural design aesthetic.
 - d. The proposed steeple and equipment area are integrated with the existing character of the site being as unobtrusive as possible to blend with the existing structures.
2. Maintenance and operation of the proposed wireless facility, as currently designed and conditioned, will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood or be injurious in the neighborhood or to the general welfare of the city. The design and location are consistent with City Code.
3. Wireless communications facilities operating alone and in conjunction with other telecommunications facilities shall not generate electromagnetic frequency (EMF) radiation in excess of the standards for permissible human exposure to EMF as adopted by the Federal Communications Commission (FCC). The existing antennas conform to the FCC requirements. The additional antennas will not exceed FCC guidelines on their own or when combined with existing.

City Council Agenda Report

Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 - New Clearwire Wireless Facility. 99 Elmwood Drive

Meeting Date: January 10, 2011

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4. The proposed project meets the Objective 8, Policy 8.1 of the Land Use Element of the General Plan in that no significant increase of traffic is expected as a result of the project that would disrupt the residential character in the nearby residential neighborhoods.
5. The project complies with applicable provisions of Design Review Section 17.45 of the zoning Ordinance.
6. The design of the proposed church steeple is architecturally compatible with the existing church building. Like the existing church, the steeple and equipment enclosure would receive stucco siding, a composition shingle hip roof, and be painted a light tan color to match the church. The antennas would be installed inside the steeple and the equipment would be within the proposed enclosure and both would not be visible from adjacent streets or properties.

CONDITIONS OF APPROVAL:

The Planning Commission recommends the following conditions as specified by each Department and Division. These conditions need to be complied with prior to, or as part of, any building permit for the proposed improvements.

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

General

1. The applicant shall file a declaration of acceptance of all conditions with the City Clerk within thirty (30) days of Council approval. Until said Declaration is filed, the Use Permit and Design Review Permit shall not be valid for any purpose.
2. The project shall be valid only in conjunction with detailed plans submitted and approved by the City Council. Any modifications required due to the Conditions of Approval and minor changes to the plan, must be approved by the Planning Division. Major site or architectural modifications shall be treated as an amendment and shall be subject to a new Use Permit and/or Design Review application.

Time Limit

3. The Use Permit and Design Review Permit shall be valid for a period of one year from the date of City Council approval. The approval shall terminate if a building permit has not been obtained and construction commenced within one-year of City Council approval of the project.

City Council Agenda Report

Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 - New Clearwire Wireless Facility. 99 Elmwood Drive

Meeting Date: January 10, 2011

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4. This use permit and design review shall be valid for a period of ten years from the date of approval unless renewed prior to expiration or modified through site modification or requirements. A new application and fee shall be required for renewal of the use permit

Architecture

5. The applicant shall prepare and include in the construction drawing design details that show the removal of the cross and for the windows, including specifications for the trim width and depth of the window background. Trim shall be four inches in width and the window background shall be recessed from the front plane of the steeple walls not less than six inches.
6. The proposed equipment enclosure shall receive roofing, stucco finish, with specific texture and color to match the church building.
7. The proposed steeple's roof eaves shall be not less than 18 inches and the cross is not required.
8. All development shall conform to plans as approved or conditioned by the City.
9. Any modifications to the plans approved by this Use Permit UPR-10-10-2819 Design Review DR-10-10-2820 shall be subject to the review and approval of the Director of Economic and Community Development.
10. If the Director finds evidence that conditions of approval have not been fulfilled, the Director may refer the administrative use permit to the Planning Commission and City Council for review. Upon such review, Commission/Council may modify or revoke the permit if the conditions have not been met.

Cessation of Operations

11. The applicant shall provide written notification to the Director upon cessation of operations on the site exceeding a 90 day period. Subject to the determination of the Director, the applicant shall remove all obsolete or unused facilities from the site within 180 days of termination of its lease with the property owner or cessation of operations.
12. A new administrative use permit or use permit and or design review shall be required if the site is to be used again for the same purpose as permitted under the original permit, if a consecutive period of 180 days has lapsed since cessation of operations.

Equipment

13. Only the proposed plans are approved by this Use Permit and Design Review. Any future equipment modifications require review and approval by the Director of Economic and Community Development and/or an Administrative Use Permit, Use Permit and/or Design

City Council Agenda Report

Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 - New Clearwire Wireless Facility. 99 Elmwood Drive

Meeting Date: January 10, 2011

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Review. Any and all equipment shall be the minimum size feasible, and the minimum number required for the operation of the telecommunications facility.

14. No exposed cabling shall be utilized as part of this, or any subsequent cellular antenna installation.
15. The applicant shall be responsible for maintaining all telecommunication facilities in a graffiti-free condition.
16. No storage of construction material or maintenance equipment shall be permitted to block public or private streets, driveways, and emergency vehicle access or sidewalk areas.
17. A fire protection system may be required for any improvements under any building permits for the site in accordance with Daly City Fire Department standards. Plans shall be submitted to the Fire Department for approval as part of building permit plan check. Alternate fire protection systems shall be submitted to the Fire Department for review and approval prior to installation. Fire Department personnel may be contacted at (650) 991-8150.
18. The applicant shall provide signage as required, including phone numbers of the utility provider for use in case of emergency. The signs shall be visibly posted at the communications equipment/structure.
19. The use of lighting shall not be allowed on telecommunication facilities unless required as a public safety measure. This does not apply to the lighting necessary for the street light proposed for replacement by this project.
20. The proposed equipment area enclosure shall incorporate an architectural aesthetic with design elements complementary to the site structures and buildings that includes roofing, stucco and paint to match. Material types, design and details shall be required as part of the building permit plan set and shall be approved by the Planning Division prior to Building Permit issuance.

EMF Radiation

21. Prior to the issuance of Building permits, information shall be furnished to the Planning Division recognizing the cumulative affect of the proposed facility. Wireless communications facilities operating alone and in conjunction with other telecommunications facilities shall not generate electromagnetic frequency (EMF) radiation in excess of the standards for permissible human exposure to EMF as adopted by the Federal Communications Commission (FCC).
22. An annual EMF (RF) report that demonstrates the facility continues to meet FCC requirements shall be submitted to the Planning Division on or before the anniversary date

City Council Agenda Report

Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 - New Clearwire Wireless Facility. 99 Elmwood Drive

Meeting Date: January 10, 2011

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of the administrative use permit or use permit. Failure to submit the report may result in revocation of the use permit.

Structural Communications

23. Provide three sets of plans and calculations justifying the proposed design, detailing the installation of the new equipment, their connection to the existing structures, how the existing structure will carry the loads imposed by the project accounting for gravity and lateral forces and any modifications to the existing structure. Plans and calculations shall be prepared by a California registered civil or structural engineer and submitted with an application for a building permit.

Noise

24. If complaints of noise generated from the equipment are received by the Planning Division, the use permit will be subject to review by the City, including possible revocation of the permit.

Maintenance

25. Normal maintenance activities shall only occur between the hours of seven a.m. and five p.m. Monday through Saturday, excluding emergency repairs, unless the carrier requests and receives approval through a use permit or an administrative use permit for a different maintenance period. Backup generators shall only be operated during power outages or for testing and maintenance between the hours of seven a.m. and five p.m. Monday through Saturday.

POLICE DEPARTMENT

26. In the event of a disaster or emergency, the installations shall not interfere with any City emergency service telecommunications facilities transmission.
27. Clearwire shall agree to adjust, correct or remove the antennas to the satisfaction of the City of Daly City should the transmission from the antennas interfere with Daly City emergency transmission or communications.

WATER AND WASTEWATER RESOURCES DEPARTMENT

28. Equipment shall not interfere with the existing SCADA systems in any way.

City Council Agenda Report

**Subject: Use Permit UPR-10-10-2819 and Design Review DR-10-10-2820 - New Clearwire
Wireless Facility. 99 Elmwood Drive**

Meeting Date: January 10, 2011

Page 10 of 10

RECOMMENDATION

The Planning Commission forwards to the City Council the following recommendations:

1. Adopt the Findings as outlined herein;
2. Adopt the Environmental Assessment;
3. Approve Use Permit, subject to the Findings and Conditions outlined herein.

Staff is available to provide any additional information desired by the Mayor or City Council Members.

Respectfully submitted,



Steve Engfer
Assistant Planner



Richard N. Berger
Director of Economic & Community Development

Attachments

Attachment A – Location Map

Attachment B – Project Plans

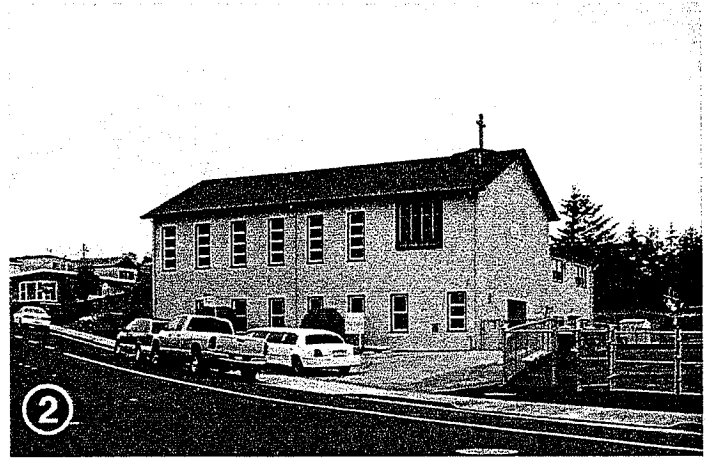
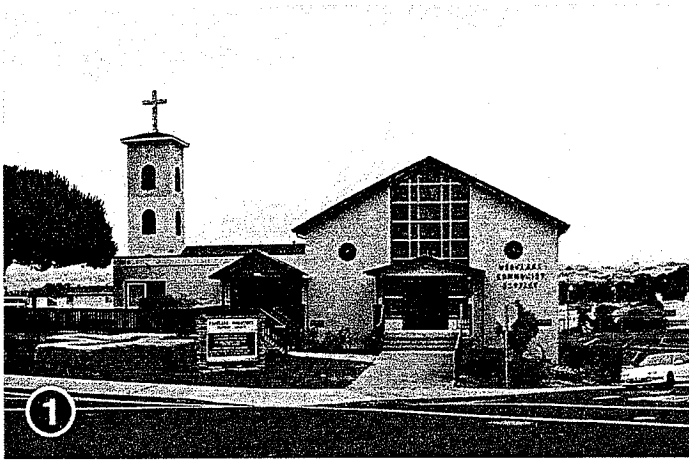
Attachment C – Site Photos

Attachment D - Handout from Mr. Chen

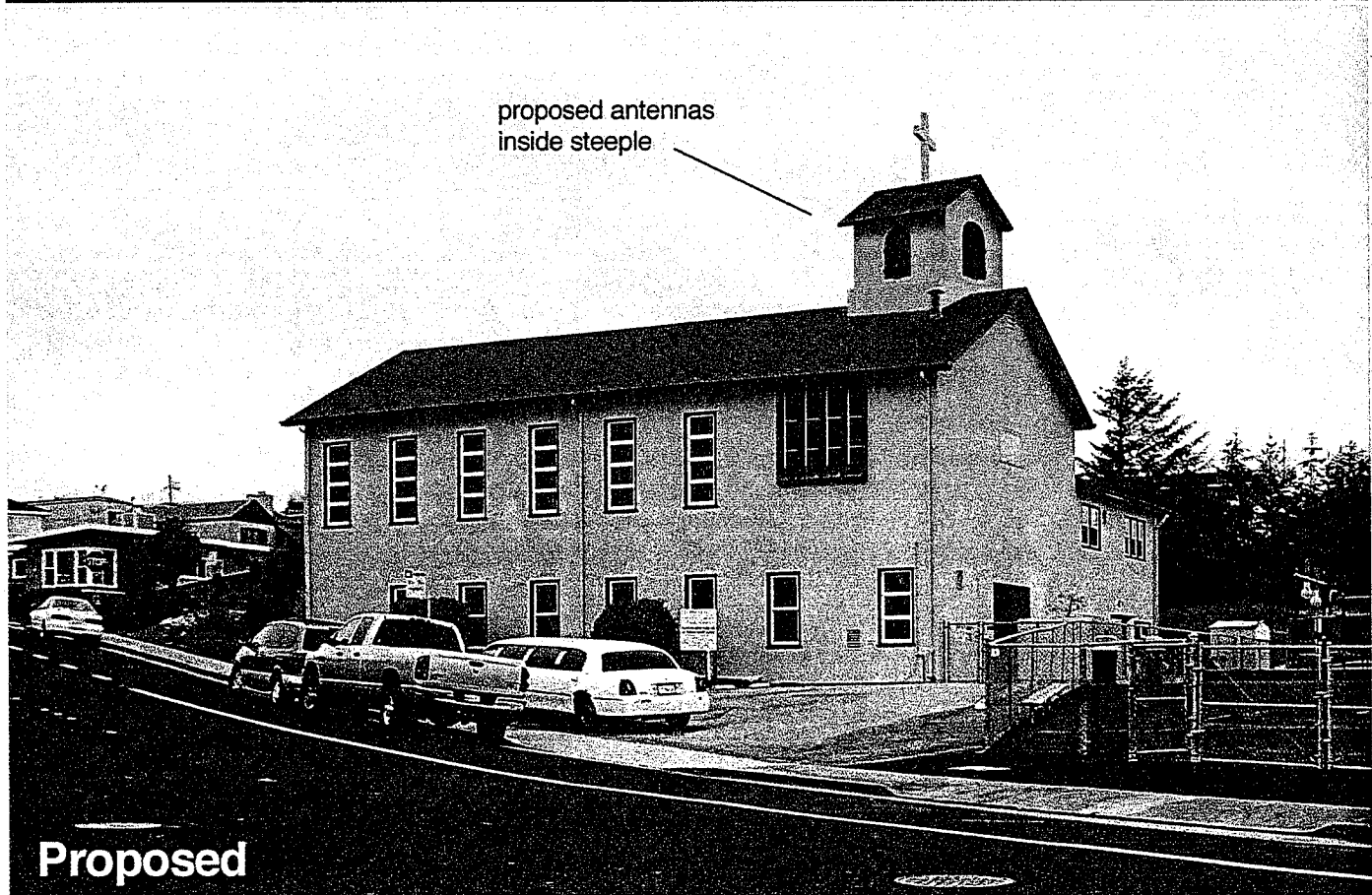
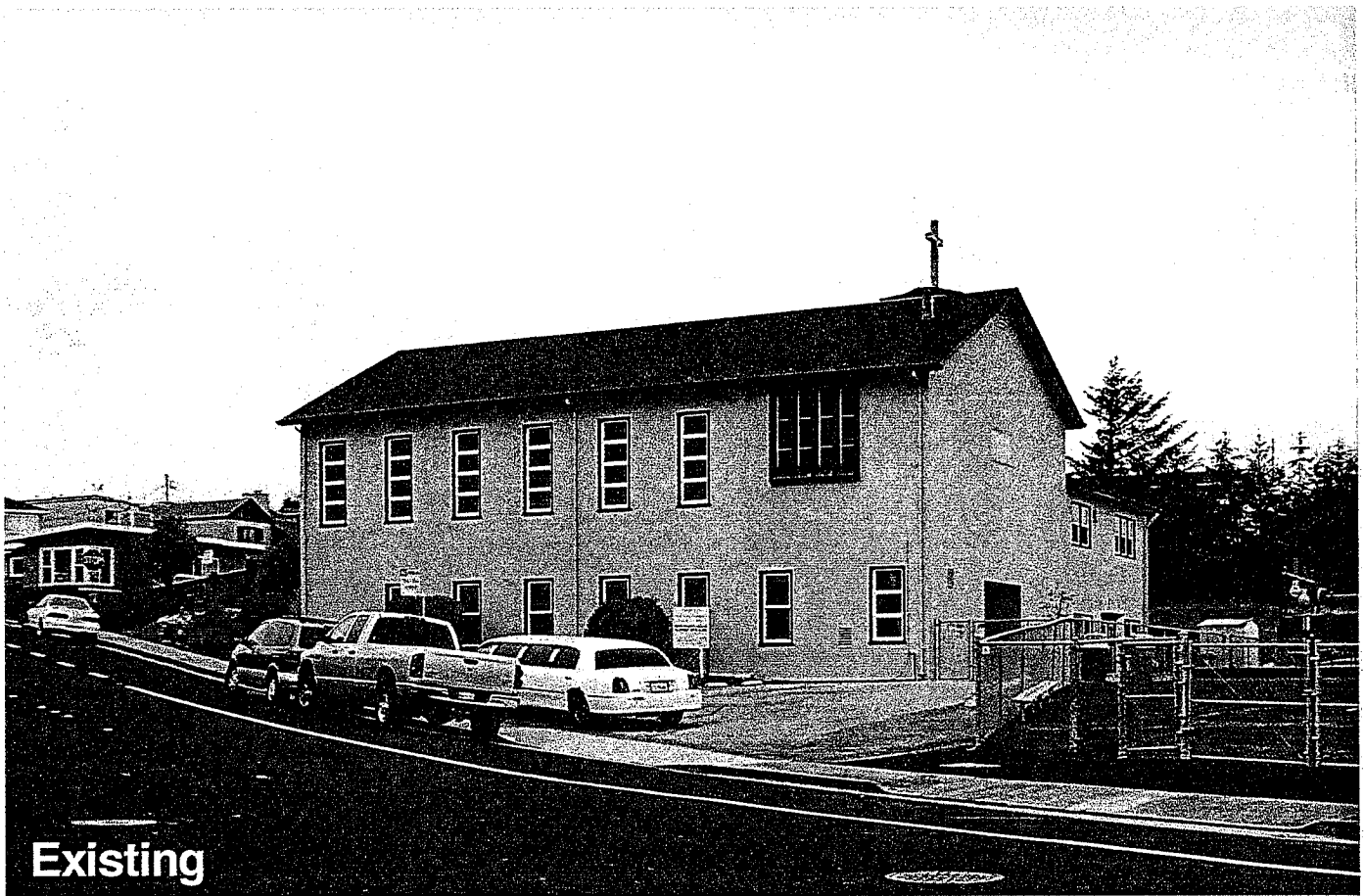
LOCATION MAP
UPR-10-10-2819
DR-10-10-2820
99 ELMWOOD DRIVE

SITE









®

99 ELMWOOD DR.
DALY CITY, CA 94015

PROJECT DESCRIPTION:

APPLICANT:
CLEARWIRE
4400 CARILLON POINT
KIRKLAND, WA 98033
PHONE: (425) 216-7600

PROPERTY OWNER:
WESTLAKE COMMUNITY BAPTIST CHURCH
99 ELMWOOD DR.
DALY CITY, CA 94015
CONTACT: STEPHEN R. MARLOWE
PHONE: (650) 758-2387

CODE INFORMATION:

ZONING CLASSIFICATION: -
BUILDING CODE: 2007 CBC
CONSTRUCTION TYPE: V-B
OCCUPANCY: B

PROJECT LEAD:
CONTACT: LARRY DANIEL
PH: (925) 244-1890

SITE ACQUISITION:

CONTACT: BRAD HEAD
PH: (925) 963-7370

ZONING MANAGER

CONTACT: BRAD HEAD
PH: (925) 963-7370

SITE LOCATION: (BASED ON NAD 83):

LATITUDE: -
LONGITUDE: -
TOP OF STRUCTURE AGL: 36'-0"
BASE OF STRUCTURE AMSL: 149.26'

CONSTRUCTION:

CONTACT: DENNIS PIKE
PH: (714) 931-3801

RF ENGINEER:

CONTACT: RONALDO BALTAZAR
PH: -

PARCEL NUMBER(S):

002-124-060

GENERAL INFORMATION:

- GENERAL INFORMATION:
1. PARKING REQUIREMENTS ARE UNCHANGED.
 2. TRAFFIC IS UNAFFECTED.
 3. SIGNAGE IS PROPOSED.
 4. NO ADDITIONAL IMPERVIOUS AREA IS PROPOSED.

PROJECT ENGINEER

DAN CONNELL, PE
CONNELL DESIGN GROUP, LLC
4685 MACARTHUR CT., SUITE 480
NEWPORT BEACH, CA 92660
CONTACT: DAN CONNELL
PH: (949) 753-8807
DCONNELL@CONNELLDISIGNGROUP.COM

PROJECT CONSULTANT

NSA WIRELESS
2000 CROW CANYON PLACE, STE. 400
SAN RAMON, CA 94583
PH: (925) 244-1890
CONTACT: LARRY DANIEL

DEPART FROM CARRIER OFFICE, SAN RAMON:

1. TAKE I-680 N. VIA THE RAMP TO SACRAMENTO.
2. TAKE THE EXIT ONTO CA-24 W./STATE ROUTE 24 TOWARD LAFAYETTE/OAKLAND.
3. TAKE THE EXIT TOWARD I-580 W.
4. MERGE ONTO I-580 W.
5. TAKE THE EXIT ON THE LEFT ONTO I-80 W. TOWARD SAN FRANCISCO.
6. MERGE ONTO US-101 S.
7. TAKE THE EXIT ONTO I-280 S. TOWARD DALY CITY.
8. TAKE THE JOHN DALY BLVD. EXIT TOWARD JUNIPERO SERRA BLVD.
9. TURN RIGHT AT JOHN DALY BLVD.
10. TURN LEFT AT LAKE MERCED BLVD.
11. TURN RIGHT AT S. MAYFAIR AVE.
12. TAKE THE 3RD LEFT ONTO ELMWOOD DR., ARRIVE AT SITE LOCATION ON THE LEFT HAND SIDE.

APPROVAL		DATE	SIGNATURE
CLEARWIRE:			
LANDLORD:			
CONST:			
S/A:			
R.E.:			
ZONING:			
A&E:			
B.H.:			

REVIEWERS SHALL CLEARLY PLACE INITIALS ADJACENT TO EACH RE/DRAW NOTE AS DRAWINGS ARE BEING REVIEWED

[illegible]

T.B.D.

A/C	AIR CONDITIONING	HORZ	HORIZONTAL	PLYWD	PLYWOOD
AGL	ABOVE FINISH GRADE	HR	HOUR	PROJ	PROJECT
APPROX	APPROXIMATELY	HT	HEIGHT	PROP	PROPERTY
		HVAC	HEATING	PT	PRESSURE TREATED
BLDG	BUILDING		VENTILATION	REQ	REQUIRED
BLK	BLOCKING		AIR CONDITIONING	RM	ROOM
				SHT	SHEET
CLG	CEILING	ID	INSIDE DIAMETER	SIM	SIMILAR
CLR	CLEAR	IN	INCH	SPEC	SPECIFICATION
CONC	CONCRETE	INFO	INFORMATION	SF	SQUARE FOOT
CONST	CONSTRUCTION	INSUL	INSULATION	SS	STAINLESS STEEL
CONT	CONTINUOUS	INT	INTERIOR	STL	STEEL
		IBC	INTERNATIONAL	STRUCT	STRUCTURAL
			BUILDING CODE	STD	STUD
DBL	DOUBLE			SUSP	SUSPENDED
DA	DIAMETER				
DIAG	DIAGONAL	LBS	POUNDS		
DN	DOWN	MAX	MAXIMUM	THRU	THROUGH
DET	DETAIL	MECH	MECHANICAL	TNG	TINNED
DWG	DRAWING	MTL	METAL	TYP	TYPICAL
		MFR	MANUFACTURE		
EA	EACH	MGR	MANAGER	UNO	UNLESS NOTED OTHERWISE
ELEV	ELEVATION	MIN	MINIMUM		
ELEC	ELECTRICAL	MISC	MISCELLANEOUS	VERT	VERTICAL
EQ	EQUAL	RO	ROUGH OPENING	VIF	VERIFY IN FIELD
EQUIP	EQUIPMENT				
EXT	EXTERIOR	NA	NOT APPLICABLE	W/	WITH
		NIC	NOT IN CONTRACT	W/O	WITHOUT
		NTS	NOT TO SCALE	WP	WATER PROOF
FIN	FINISH				
FLUOR	FLUORESCENT				
FLR	FLOOR	OC	ON CENTER		
FT	FOOT	OD	OUTSIDE DIAMETER		
GA	GAUGE				
GLV	GALVANIZED				
GC	GENERAL CONTRACTOR				
GRND	GROUND				
GYP	GYPSON				
BD	BOARD				

CA-ST-00890

99 ELMWOOD DR.
DALY CITY, CA 94015

REVISIONS

[illegible]

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SHEET TITLE
TITLE SHEET

SHEET NUMBER

T-1

clear wire®

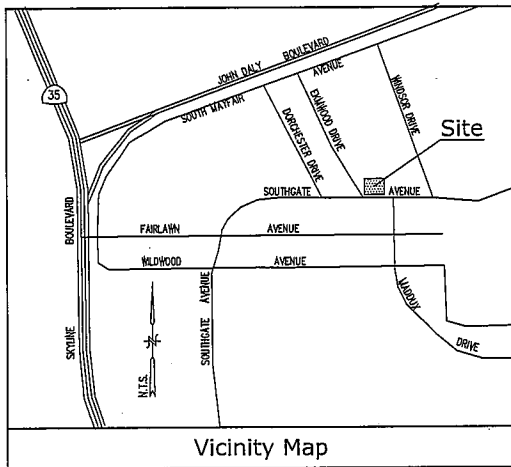
4400 CARILLON POINT
KIRKLAND, WA 98033

NSA Wireless, Inc.

2000 CROW CANYON PL., STE. 400
San Ramon, CA 94583
(925) 244-1890 OFFICE



CONNELL DESIGN GROUP, LLC
CONSULTING CIVIL ENGINEERS
4055A1 CARTHUR COURT, SUITE 401, NEWPORT BEACH, CA 92660
(949) 753-8807 OFFICE - (949) 753-8833 FAX



Title Report

THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE REPORT.
PREPARED BY:
ORDER NO.:
DATED:

Legal Description

A PORTION OF BLOCK 41B PER WESTLAKE UNIT NO. 4B, IN THE CITY OF DALY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, FILED IN BOOK 34, PAGE 35, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel No.

002-124-060

Easements

NOT AVAILABLE

Access Easement/Lease Area

TO BE DETERMINED

Geographic Coordinates

TO BE DETERMINED

CERTIFICATION:
THE LATITUDE AND LONGITUDE SHOWN ABOVE ARE ACCURATE TO WITHIN +/- 15 FEET HORIZONTALLY AND THAT THE ELEVATIONS SHOWN ABOVE ARE ACCURATE TO WITHIN +/- 3 FEET VERTICALLY. THE HORIZONTAL DATUM (GEOGRAPHIC COORDINATES) IS IN TERMS OF THE NORTH AMERICAN DATUM OF 1983 (NAD 83) AND IS EXPRESSED IN DEGREES (°), MINUTES (') AND SECONDS ("). TO THE NEAREST HUNDREDTH OF A SECOND. THE VERTICAL DATUM (ELEVATIONS) IS IN TERMS OF THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) AND IS DETERMINED TO THE NEAREST TENTH OF A FOOT.

Basis of Bearings

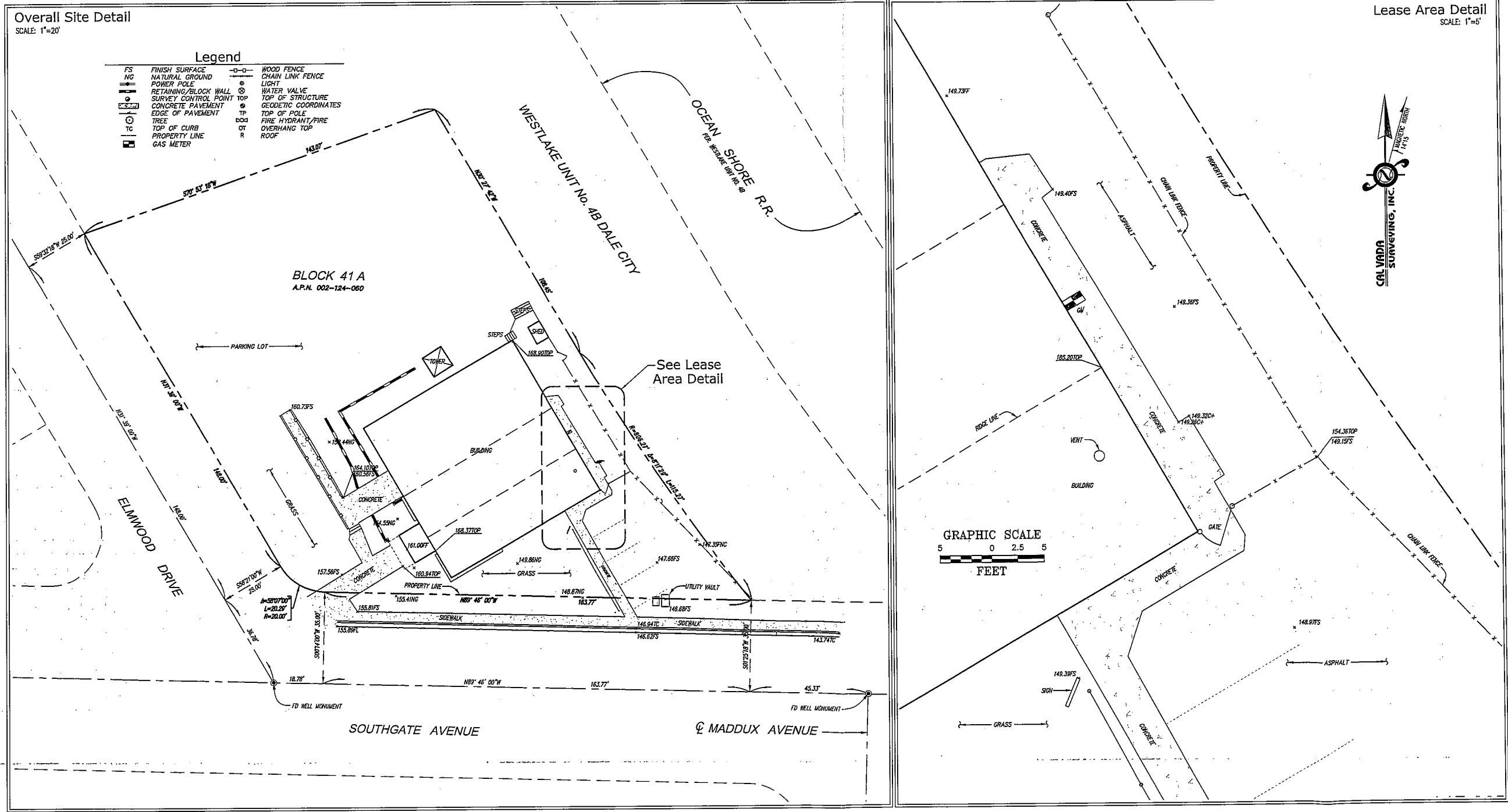
THE STATE PLANE COORDINATE SYSTEM OF 1983NAD 88, CALIFORNIA ZONE 3.

Bench Mark

THE N.G.S. GPS MONUMENT "HT04A1", ELEVATION =404.1 FEET (NAVD 88).

Date of Survey

JULY 2, 2010



clear wire®

4400 CARILLON POINT
KIRKLAND, WA 98033

NSA Wireless, Inc.

15000 Ranch 15 1st Floor
15000 Ranch 15 1st Floor
15000 Ranch 15 1st Floor
(925) 244-1890 OFFICE

CDG

CONNELL DESIGN GROUP, LLC
CONSULTING CIVIL ENGINEERS
4055 HANCOCK COURT, SUITE 400, NEWPORT BEACH, CA 92660
(949) 753-8807 OFFICE - (949) 753-8833 FAX

CA-SFO0890

99 ELMWOOD DRIVE
DALY CITY, CA 94015
SAN MATEO COUNTY

CAL VADA

SURVEYING, INC.

411 Jankis Ct., Suite 205, Corona, CA 92680
Phone: 951-280-9560 Fax: 951-280-9746
Toll Free: 800-CALVADA www.calvada.com

JOB NO. 10487

REVISIONS			
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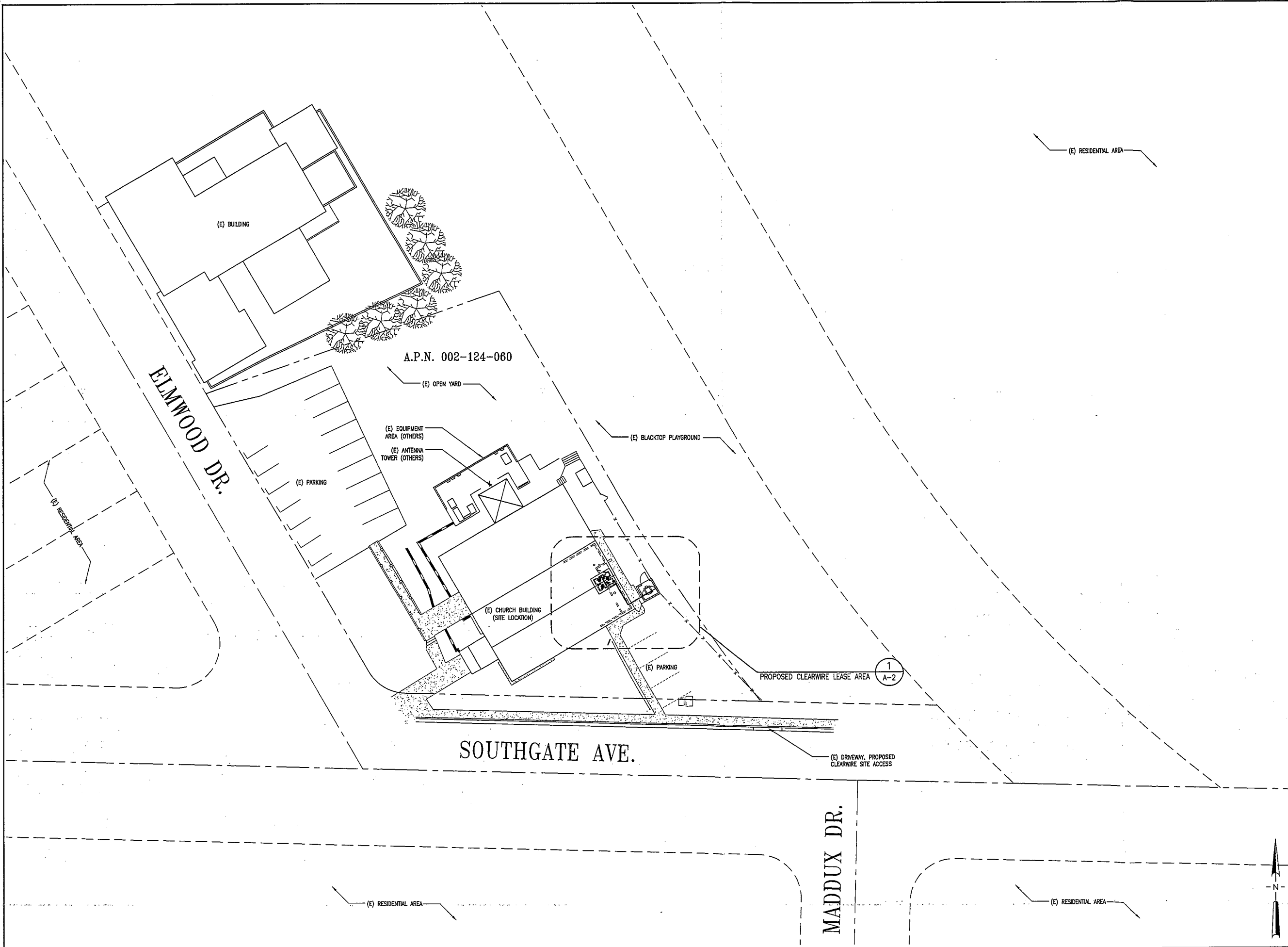
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SHEET TITLE
TOPOGRAPHIC
SURVEY

SHEET NUMBER

LS-1

SHEET 1 OF 1



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465 MACARTHUR COURT, SUITE 400 NEWPORT BEACH, CA 92660
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CA-SFO0890

99 ELMWOOD DR.
DALY CITY, CA 94015

REVISIONS

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2	07/27/10	100% ZD	EN

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SHEET TITLE
SITE PLAN

SHEET NUMBER

A-1

4400 CARILLON POINT
KIRKLAND, WA 98033

2000 CROW CANYON PL., STE. 400
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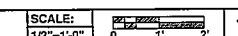
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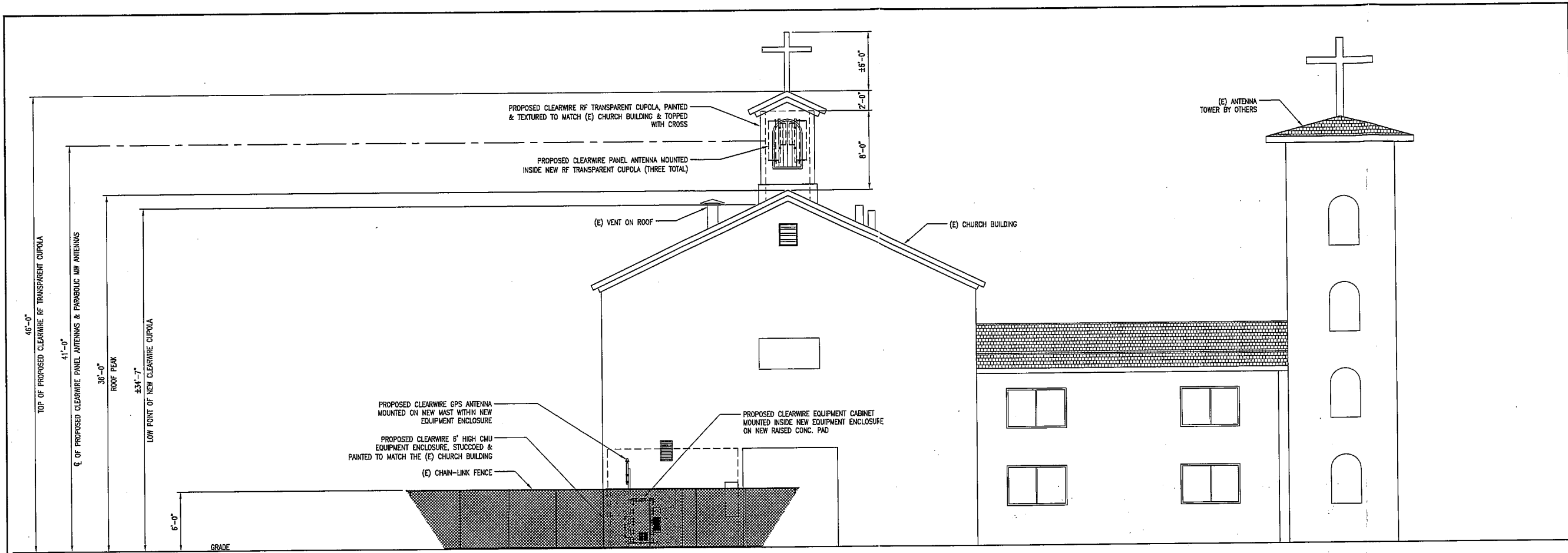
99 ELMWOOD DR.
DALY CITY, CA 94015

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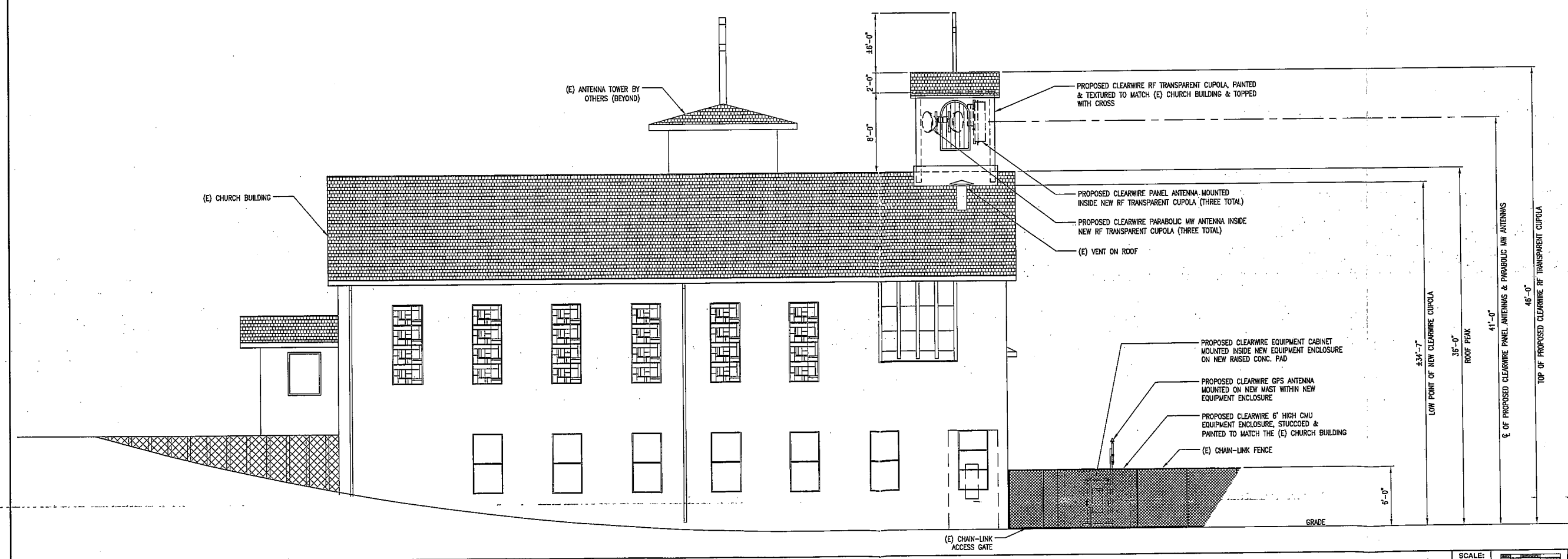
SHEET NUMBER

A-2





NORTHEAST ELEVATION



SOUTHEAST ELEVATION

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(415) 755-8807 OFFICE • (415) 755-8833 FAX

CA-SFO0890

99 ELMWOOD DR.
DALY CITY, CA 94015

REVISIONS				
NO.	DATE	DESCRIPTION	INITIAL	
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2	07/27/10	100% NO	EN	

NOT FOR CONSTRUCTION UNLESS
LABELED AS CONSTRUCTION SET

SHEET TITLE
ELEVATIONS

SHEET NUMBER
A-3

Parents await cell-phone report: The Vancouver father who led the charge against a transmitting antenna expects his fears will be validated.; [Final Edition]

Janet Steffenhagen. The Vancouver Sun. Vancouver, B.C.: May 17, 1999. pg. B.1.FRO

Abstract (Summary)

Milt Bowling expects the expert panel will tell a news conference today that **safety** standards used by Health Canada to regulate the exposure of individuals to radio frequencies are badly out of date.

The panel was struck last year after Health Canada asked for a study of the potential risks of the radio-frequency fields used for wireless telecommunications, including **cell phones**, transmitter towers and roof-top antennas.

The study measured radio-frequency fields at five Vancouver schools, three that were close to **base-station** antennas and two that were not. Radio frequency fields were detected at all five, but none exceeded the **safety** code limits.

Mobile phone station radiation and health

Mobile phones use electromagnetic radiation in the microwave range, which some believe may be harmful to human health.

Another area of concern is the radiation emitted by the fixed infrastructure used in mobile telephony, such as base stations and their antennas, which provide the link to and from mobile phones. This is because, in contrast to mobile handsets, it is emitted continuously and is more powerful at close quarters. On the other hand, field intensities drop rapidly with distance away from the base of the antenna because of the attenuation of power with the square of distance. Base station emissions must comply with safety guidelines

A 2002 survey study by Santini *et al.* in France found a variety of self-reported symptoms for people who reported that they were living within 300 metres (984 ft) of GSM cell towers in rural areas, or within 100 m (328 ft) of base stations in urban areas. Fatigue, headache, sleep disruption and loss of memory were among the symptoms reported.^[58] Similar results have been obtained with GSM cell towers in Spain,^[59] Egypt,^[60] Poland^[61] and Austria.^[62]

Experts consulted by France consider it is mandatory that main antenna axis not to be directly in front of a living place at a distance shorter than 100 meters. This recommendation was modified in 2003 to say that antennas located within a 100-metre radius of primary schools or childcare facilities should be better integrated into the cityscape and was not included in a 2005 expert report.

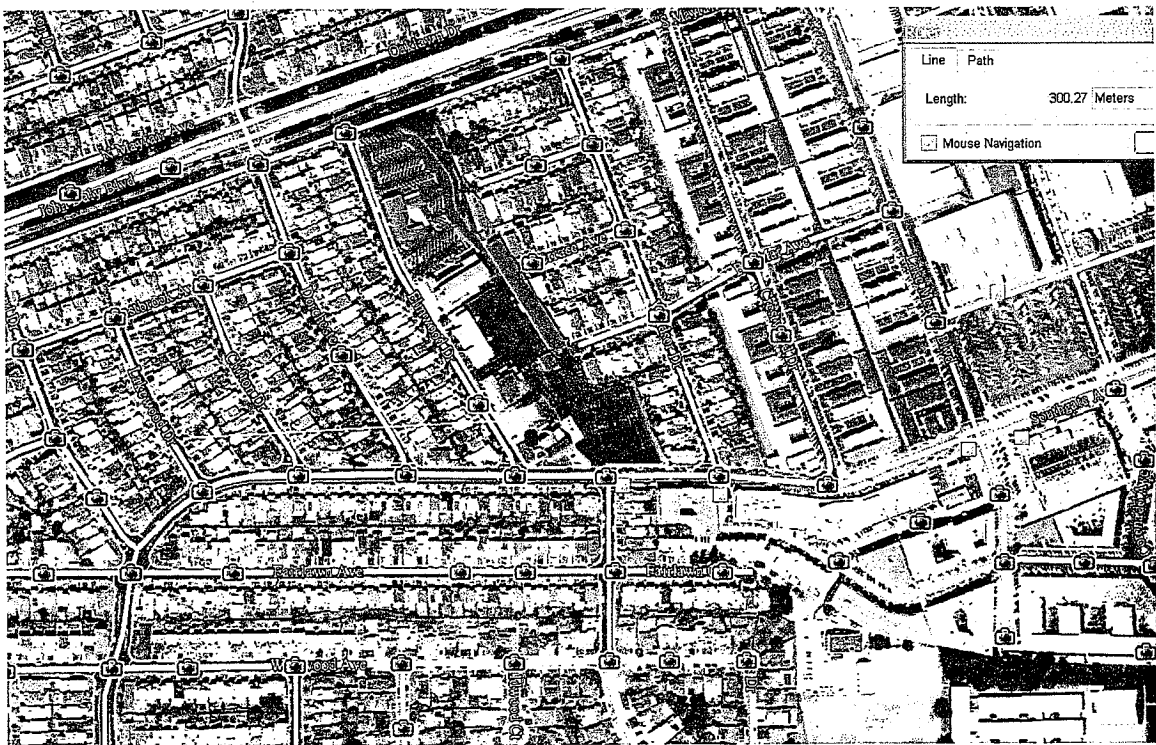
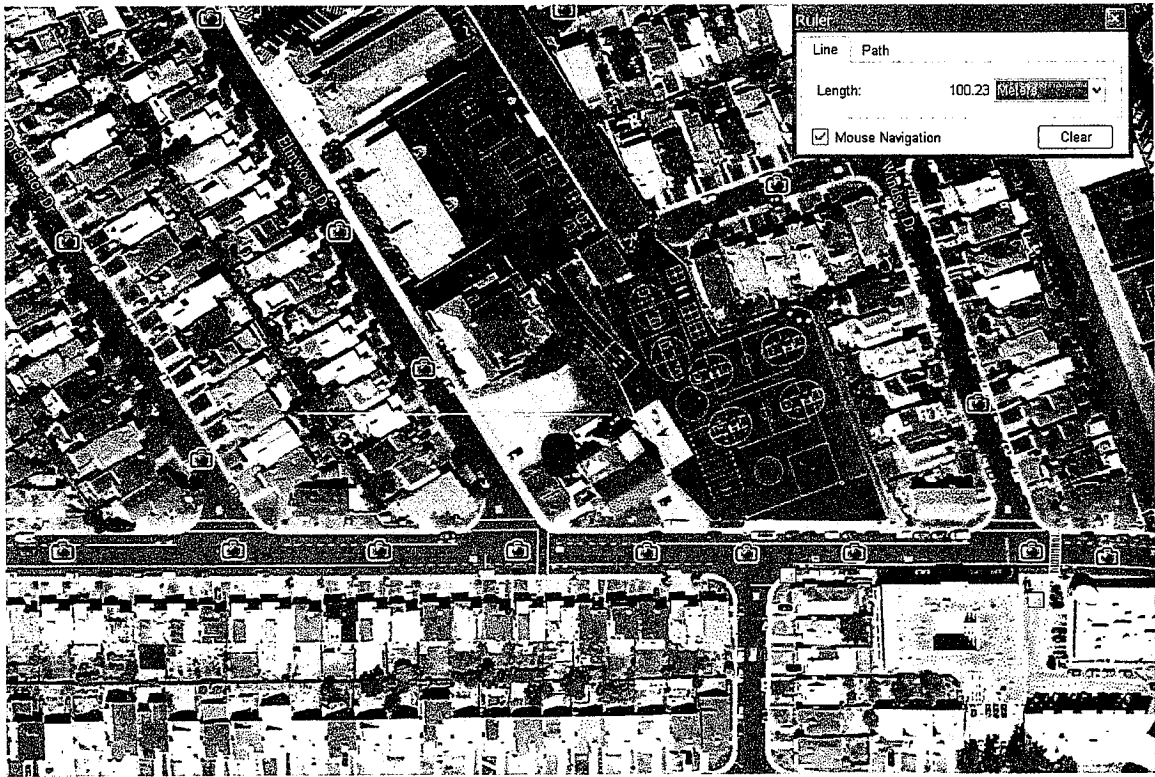
The safety standards in the U.S. are set by the Federal Communications Commission (FCC). The FCC has based its standards primarily on those standards established by the Institute of Electrical and Electronics Engineers (IEEE), specifically Subcommittee 4 of the "International Committee on Electromagnetic Safety".

Mobile telephone service providers are, in many regions, **required to obtain construction licenses, provide certification of antenna emission levels and assure compliance to ICNIRP standards and/or to other environmental legislation.**

In order to protect the population living around base stations and users of mobile handsets, governments and regulatory bodies adopt safety standards, which translate to limits on exposure levels below a certain value. There are many proposed national and international standards, but that of the International Commission for Non-Ionizing Radiation Protection (ICNIRP) is the most respected one, and has been adopted so far by more than 80 countries.

For radio stations, ICNIRP proposes two safety levels: one for occupational exposure, another one for the general population. Currently there are efforts underway to harmonise the different standards in existence.^[71]

IEEE C95.1A Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz Amendment 1: Specifies Ceiling Limits for Induced and Contact Current, Clarifies Distinctions between Localized Exposure and Spatial Peak Power Density.



Elevated risk of brain tumors found in heavy cellphone users

JUDY SIEGEL. Jerusalem Post. Jerusalem: May 18, 2010. pg. 1

Abstract (Summary)

Surprisingly, among the cancer patients, cellphone use was actually connected with a lower risk of cancer, which [Sigal Sidetzky] attributed to "problems" in the study, such as measurements, as it was "impossible that using a cellphone could actually protect people against brain cancer. Presumably, there are underestimates of the real risk."

She noted, however, that new "third-generation" cellphone technology was apparently safer than the older GSM technology. She said that of the [128]19.2 million that Interphone cost, [128]5.5m. had been donated by international cellphone companies, but an absolute "firewall" had been set up to prevent them from having any influence on its findings.

"When on a call, use a wired headset (not a wireless headset, like a Bluetooth), use in speaker-phone mode or send text messages," the statement said. "Keep the cellphone away from your body (particularly trousers or shirt pockets); use a belt holster designed to shield the body from cellphone radiation when on standby. Avoid use in a moving car, train, bus or rural areas at some distance from a **cell base station**. Use the cellphone like an answering machine: Keep it off until you want to see who has called; only then, return calls."

Parents hope to stop tower construction;Planned cell tower is too near Montessori school, group says; [FINAL Edition]

KRISTEN HANKLA. The Post and Courier. Charleston, S.C.: Oct 11, 2006. pg. B.8

Abstract (Summary)

[James Redman-Gress] complied, mailing a flyer to parents the day after the parent-teacher night. In it he shared the positions of two groups in other parts of the country that oppose **cell phone** towers near schools, and pointed out that the International Association of Firefighters opposes using fire **stations** as **base stations** for **cell phone** towers and antennae until more research is done.

Some said they should have been told a **cell** tower was coming before enrolling their children this year. The **cell** tower was granted zoning approval on July 21 according to Lee Batchelder, Charleston zoning administrator. Because the tower met all staff approval conditions listed in the Charleston Zoning Ordinance, no public notice was required.

[Doe Jenkins] has been reading about electromagnetic frequencies since she found out about the tower, and said certain strengths have been associated with childhood leukemia among other diseases. The tower being built outside the school would have higher radio frequencies, which have not been studied as thoroughly, she said. The World Health Organization is currently studying their effects because their **safety** is not known, she said. She pointed out that children have the potential for longer exposure than adults, and that they cannot speak for themselves on this issue.

Cell phone mast 'affecting my family's health'

Daniel Bardsley, Staff Reporter. Gulf News. Dubai: Jun 24, 2006. pg. 1

Abstract (Summary)

Telecommunications company Etisalat insists that its **cell phone** towers exceed international recommendations and are not a threat to people.

Ahmad Bin Ali, Etisalat's Corporate Communications Manager, said the GSM **base stations** or **cell phone** towers, that the company set up adheres to international conditions and specifications.

"Etisalat uses secure limits of maximum exposure when designing and operating **phone** towers and the locations are selected in line with international **safety** standards,"he added.

Fire Fighters Seek Study of Cell Phone Tower Radiation as Potential Health Hazard

PR Newswire. New York: Apr 7, 2005. pg. 1

Abstract (Summary)

The IAFF and its medical team believe a study with the highest scientific merit and integrity, contrasting fire fighters with residence in **stations** with towers to fire fighters without similar exposure, is necessary to truly determine the effects of radio frequency radiation on the central nervous system (CNS) and the immune system, as well as other metabolic effects observed in preliminary studies.

The IAFF's efforts will attempt to establish a correlation between such biological effects and a health risk to fire fighters and emergency medical personnel due to the citing of **cell phone** antennas and **base stations** at fire **stations** and facilities where they work. For a full copy of the IAFF report on the potential risk of **cell** tower radiation, visit <http://www.iaff.org>.

The IAFF, the leading advocate for fire fighter health and **safety** in North America, is headquartered in Washington, DC, and represents more than 267,000 full-time professional fire fighters and paramedics. More than 2,900 affiliates protect over 80 percent of the continent's population in nearly 6,000 communities in Canada and in every state in the U.S. The IAFF is one of the ①AFL-CIO's fastest-growing unions and has experienced 35 consecutive years of membership growth. The IAFF's Political Action Committee, FIREPAC, is currently one of the top 25 PACs in the nation. Visit <http://www.iaff.org>. SOURCE International Association of Fire Fighters

Placement of towers creates hang-ups; Some residents concerned over cell phone antennas; [HOME Edition]

Dominic Berbeo. Daily Breeze. Torrance, Calif.: Apr 1, 2001. pg. A.4

Abstract (Summary)

One gabber's convenience is another resident's hang-up. Communities are rallying against an upsurge in permit requests for **cell** towers, saying they cause blight in their neighborhoods and pose health risks.

while **cell phones** and their **base station** antennas are essentially two-way radios, producing radio-frequency radiation, the consensus of scientists is that the power is too low to create health hazards under normal circumstances.

The Los Angeles Unified School District board approved a policy last year that prohibits the placement of **cell** antennas at schools and urges the state Environmental Protection Agency to develop **safety** standards on tower radiation emissions.

Cell phone Hang-ups; FEARS, DOUBT ABOUT SAFETY PERSIST; [FINAL Edition]

Michael Stroh. The Sun. Baltimore, Md.: Jun 28, 1999. pg. 1.C

Abstract (Summary)

Last week, things got even murkier. Carlo announced that several unpublished studies offer tantalizing hints that there may be something to the **cell phone**-cancer claim after all. The wireless industry and some other scientists were quick to dismiss the results. But the new research will fuel the debate well into the next century over whether **cell phones** can make people sick.

The debate over **cell phones** and cancer ignited in 1993 when a Florida man appeared on the talk show "Larry King Live" alleging that a **cell phone** had given his wife a terminal brain tumor. He detailed his lawsuit against the industry. The program caused a sensation that has yet to subside.

Despite a lack of hard evidence, fear has prompted some to follow in the footsteps of the Florida widower and file lawsuits. None so far has been successful. Others, worried about the spread of wireless antennas atop schools and churches in the community, have mounted protests. "I get 10 questions on **cell-phone base stations** for every one I get on **cell phones**," says John Moulder, a radiation oncologist at the Medical College in Wisconsin in Milwaukee.

Royal Society of Canada's Expert Panel Releases its Findings

Canada NewsWire. Ottawa: May 17, 1999. pg. 1

Abstract (Summary)

Background: Last August, Health Canada asked the Royal Society of Canada to appoint an Expert Panel on potential health risks that might be associated with radio-frequency fields from telecommunications technologies, such as wireless **phones**, **cell** sites and roof-top antennas. The Panel was also asked to comment on the adequacy of Health Canada's "**Safety** Code 6," which regulates radio- frequency exposure limits.

Comment: The wireless industry in Canada supports ongoing research and surveillance in the study of health and **safety** issues related to wireless technology. The first priority of the industry has always been the health and **safety** of customers, employees and the public. The wireless industry around the world has dedicated considerable resources to scientific research projects related to this issue.

To provide the public with accurate and current information on the health and **safety** of wireless technologies, the Canadian Wireless Telecommunications Association is providing funding and other assistance for the creation of a Wireless Information Resource Centre (WIRC). Scheduled to be launched this summer, the resource centre will assemble information and research focussed on health issues relating to wireless **phones**, **base station** antennas and other wireless technologies. Once established, the Centre will operate autonomously and provide impartial and objective information on health questions. WIRC will be operated and maintained by an independent staff of scientific experts and researchers, and supported by a group responsible for the technical aspects of the site.

Parents await cell-phone report: The Vancouver father who led the charge against a transmitting antenna expects his fears will be validated.; [Final Edition]

Janet Steffenhagen. The Vancouver Sun. Vancouver, B.C.: May 17, 1999. pg. B.1.FRO

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