

**RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:**

County of Orange
OC Public Works
Attention: Real Estate Services
300 North Flower Street, 6th Floor
Santa Ana, California 92703

This is to certify that this document is exempt
from recording fees per Government Code
Section 27383 and is exempt from Document
Transfer Tax per Revenue and Taxation Code
Section 11922.

THIS SPACE FOR RECORDER'S USE ONLY

Location: Incorporated City of Newport Beach
Project Name: Upper Newport Bay – Mesa Drive
Project/Parcel No.: PR47D-303
Assessor's Parcel Nos.: 439-061-03 and 439-061-11 (Portion)

ACCESS EASEMENT DEED

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

CITY OF NEWPORT BEACH,
a California municipal corporation,
hereinafter referred to as "CITY"

does hereby GRANT to the

ORANGE COUNTY FLOOD CONTROL DISTRICT,
a body corporate and politic,
hereinafter referred to as "DISTRICT,"

a perpetual non-exclusive easement for ingress and egress purposes in, on and over that certain real property legally described in **Exhibit A** and depicted on **Exhibit B ("Property")**, which exhibits are attached hereto and made a part hereof, subject to the following:

1. CITY shall be responsible for the adequacy of current and future improvement of the Property.
2. CITY shall, at its sole cost and expense, maintain any and all improvements within the Property.
3. The Easement granted herein is subject to the rights of CITY or its successors in interest to use the Property for any purposes which do not interfere with or are not inconsistent with DISTRICT'S use of the Property for flood control purposes. CITY shall not construct improvements in the Property without first obtaining an encroachment permit from DISTRICT. Such encroachment permit shall be issued by DISTRICT in its sole discretion.

EXHIBIT C

4. The provisions of this Access Easement Deed shall bind and inure to the benefit of all successors and assigns of CITY and assigns of DISTRICT (collectively, "assignee"). Public entities shall be deemed to be permitted assignees. Any assignee of an interest hereunder shall automatically, as of the effective date of the assignment, (i) succeed to the rights herein granted and (ii) be deemed to have assumed the obligations hereunder. No such assignment shall be deemed to relieve DISTRICT or CITY of their respective obligations under this Access Easement Deed unless such release is in writing executed by both parties hereto. Upon the request of either party hereto, any assignee shall execute and acknowledge an instrument in recordable form providing for the assumption of the obligations of its assignor pursuant to this Access Easement Deed.

5. The DISTRICT, its officers, agents, and employees, and by persons under contract with it and their employees, shall have the right to deposit tools, implements, and other materials on the Property whenever and wherever necessary for the purposes of accessing, operating, reconstructing, maintaining, and cleaning of the Santa Ana Delhi Channel facility.

6. Nothing in this Deed is intended nor shall anything in this Deed be construed to transfer to DISTRICT or its successors or assigns or to relieve CITY or its successors or assigns or predecessors in title of any responsibility or liability CITY or its successors or assigns or predecessors in title now has, has had or comes to have with respect to human health or the environment, including but not limited to responsibility or liability relating to hazardous or toxic substances or materials (as such terms as those used in this sentence are defined by statute, ordinance, case law, governmental regulation or other provision of the law). Furthermore, DISTRICT may exercise its rights under law to bring action, if necessary, to recover clean up costs and penalties paid, if any, from CITY or any others who are ultimately determined by a court of competent jurisdiction and/or a Federal, State or local regulatory or administrative governmental agency or body having jurisdiction, to have responsibility for said hazardous toxic substances or materials upon, within, or under the real property interests transferred pursuant to this Deed. Notwithstanding the forgoing, DISTRICT shall be and remain liable for any hazardous or toxic substances or materials which become located, because of DISTRICT'S operations, upon, within, or under the real property interests transferred pursuant to this Deed.

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EXHIBIT C

IN WITNESS WHEREOF, this instrument has been executed on _____.

CITY

CITY OF NEWPORT BEACH,
a California municipal corporation

By: _____
David A. Kiff, City Manager

APPROVED AS TO FORM:

By: _____
Aaron C. Harp, City Attorney

ATTEST:

Leilani I. Brown, City Clerk

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within Access Easement Deed to the ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, is hereby accepted by order of the Board of Supervisors of the County of Orange, California, acting as the governing board of the ORANGE COUNTY FLOOD CONTROL DISTRICT, and the ORANGE COUNTY FLOOD CONTROL DISTRICT consents to recordation thereof by its duly authorized officer.

ORANGE COUNTY FLOOD CONTROL DISTRICT,
a body corporate and politic

Dated: _____


By: _____
Chair of the Board of Supervisors
Orange County, California

Signed and certified that a copy of this document has been delivered to the Chair of the Board per G.C. Sec. 25103, Resolution 79-1535.

ATTEST:

Clerk of the Board of Supervisors
Orange County, California

Approved as to Form:
Office of the County Counsel
Orange County, California

By: 
Deputy

Date: 1-10-12

EXHIBIT C

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT C

EXHIBIT "A"

LEGAL DESCRIPTION

Project: Upper Newport Bay Regional Park
Project No.: PR47D
Parcel No.: 303

That portion of Birch Street, in the City of Newport Beach, County of Orange, State of California, shown on a map of Tract No. 706 recorded in book 21, page 25 of Miscellaneous Maps in the office of the County Recorder of said county, and abandoned by that certain Resolution of the Board of Supervisors of said county, recorded July 17, 1951 in book 2145, page 618 of Official Records in the office of said County Recorder, bounded as follows:

Northwesterly by the centerline of said Birch Street per said Tract;

Southeasterly by a line that is parallel and concentric with and 18.00 feet southeasterly from the centerline of said Birch Street;

Northeasterly by the northwesterly prolongation of the northeasterly line of Lot 121 of said Tract; and

Westerly by the northerly prolongation of that certain course shown as "T-7" having a bearing and length of S.13°10'40"W., 24.03 feet, in the generally southeasterly line of the land described as Parcel "F01-105.01" to the Orange County Flood Control District as shown on page 3 of Record of Survey 93-1026 filed in book 146, pages 2 through 7 of Records of Survey in the office of said County Recorder.

Containing 4199 Square Feet, more or less.

See EXHIBIT B attached and by reference made a part.

APPROVED

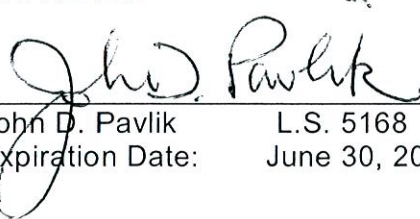
 Date: 6/8/11
John D. Pavlik L.S. 5168
Expiration Date: June 30, 2011

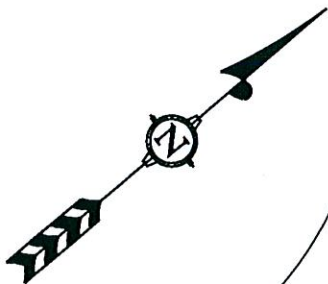


EXHIBIT C

EXHIBIT B

DEPICTION OF PROPERTY

EXHIBIT C



LOT 103
THE IRVINE CO.
AP. 119-310-03 F.A. 9636011
AP. 119-300-10

O. C. F. C. D.
(SANTA ANA - DELHI CHANNEL)

30' Esm't. to State
of California per
O.R. 11382/1909

Portion of Birch Street abandoned per
O.R. 2145/618

O.C.F.C.D.
O.R. 11997/22
Parcel FOI-105.01

RICHARD MORIARTY
NEWPORT

S. 13°10'40"W., 24.03' (T - 7)
per R.S.B. 146/2-7

CARLA BROCKMAN

AP. 439-061-03 F.A. 9257949
DOC. NO. 19980087243

BIRCH STREET

PER R.S. 92-1098 (138/28-32)

DRIVE

UNINC. AREA BDRY.

UNINC. AREA BDRY.

UNINC. AREA BDRY.

UNINC. AREA BDRY.

UNINC. AREA BDRY.

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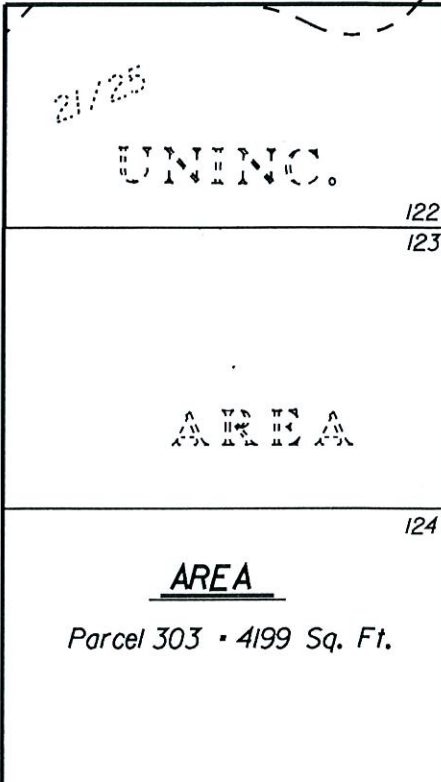


EXHIBIT "B"



ORANGE COUNTY OC PUBLIC WORKS - RIGHT OF WAY ENGINEERING
RIGHT OF WAY MAP - COMPILED FROM PUBLIC RECORDS

PROJECT: Upper Newport Bay Regional Park (PR47D-303)				SCALE: 1" = 100'	ID # 2010-010
PREP. BY: J.V.	CHKD. BY: S.M.H.	DATE: June, 2011	EST.: Easement	REC. DATE:	O.R.