

RESOLUTION NO. 2010-76

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 2, 2010 FOR THE SUBMISSION OF PROPOSED CHARTER AMENDMENTS AND ORDINANCE REPEAL

WHEREAS, pursuant to authority provided by Article XI of the California Constitution, Title 4, Division 2, Chapter 2 of the California Government Code and Division 9, Chapter 3, Article 3 (commencing at Section 9255) of the California Elections Code, the City Council of the City of Newport Beach desires to submit to the voters proposed Charter amendments relating to various provisions within the Charter; and

WHEREAS, the City Council is authorized and directed by statute to submit the proposed Charter amendments to the voters.

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

SECTION 1. That pursuant to Article XI of the California Constitution, Title 4, Division 2, Chapter 2 of the California Government Code and Division 9, Chapter 3, Article 3 (commencing at Section 9255) of the California Elections Code, there is called and ordered to be held in the City of Newport Beach, California on Tuesday, November 2, 2010, a General Municipal Election for the purpose of submitting the following proposed Charter amendment and ordinance repeal measure:

MEASURE _____	
Shall the Charter be amended and ordinances repealed to: close Charter loopholes that circumvent Proposition 13; restrict oil operations; amend legal document publication requirements; simplify franchise processes; increase formal bidding thresholds; adjust misdemeanor penalties; require redistricting appointments every ten years; amend Civil Service System; repeal Chamber of Commerce contribution limit; remove City contract term limitations; require vote for the sale of City owned waterfront property; make administrative changes to comply with state and federal law?	YES
	NO

SECTION 2. The full text of the Charter amendments and ordinance repeal submitted to the voters by the ballot measure in Section 1 is attached to this Resolution as Exhibit "1."

SECTION 3. The ballots to be used at the November 2, 2010 election shall be in a form and content as required by law.

SECTION 4. The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

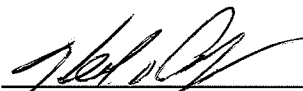
SECTION 5. The polls shall be open at seven o'clock a.m. (7:00 a.m.) on the day of the election and shall remain open continuously from that time until eight o'clock p.m. (8:00 p.m.) of the same day when the polls shall be closed, except as provided in California Election Code Section 14401.

SECTION 6. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 7. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

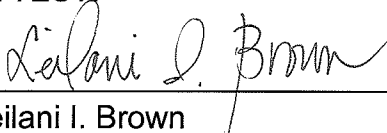
SECTION 8. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED on this 6th day of July, 2010.



Keith D. Curry
Mayor

ATTEST:



Leilani I. Brown
City Clerk



EXHIBIT “1”
To
Resolution Calling General Election and Submitting Charter
Amendments and Ordinance Repeal
Redline Draft of Amended Charter Sections

CLOSE CHARTER LOOPHOLE THAT CIRCUMVENTS PROPOSITION
13

Repeal the text of Section 1107 and reserve the section space for future use.

Section 1107. ~~Reserved.~~ Tax Limits.

~~(a) — The City Council shall not levy a property tax, for municipal purposes, in excess of One Dollar (\$1) annually on each One Hundred Dollars (\$100) of the assessed value of taxable property in the City, except as otherwise provided in this Section, unless authorized by the affirmative votes of three-fifths of the electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors. The number of years that such additional levy is to be made shall be specified in such proposition.~~

~~(b) — There shall be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, as additional taxes, if no other provision for payment thereof is made:~~

~~1. — A tax sufficient to meet all liabilities of the City for principal and interest of all bonds and judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the City; and~~

~~2. — A tax sufficient to meet all obligations of the City to the State Employees' Retirement System for the retirement of City employees, due and unpaid or to become due during the ensuing fiscal year.~~

~~(c) — Special levies in addition to the above, may be made annually for the following purposes in amounts not to exceed the limits hereinafter respectively enumerated in this Section, on each One Hundred Dollars (\$100) of the assessed value of taxable property in the City:~~

~~1. — For libraries in an amount not to exceed fifteen cents.~~

~~2. For advertising and promotion in an amount not to exceed ten cents.~~

~~3. For parks, beaches, civic beautification, recreation and playgrounds in an amount not to exceed fifteen cents.~~

~~The proceeds of special levies may be used solely for the respective purposes for which such levies have been made.~~

Amend Charter Section 1113

Section 1113. Capital Improvement Fund.

A fund for capital improvements generally is hereby created, to be known as the "Capital Improvement Fund". The City Council may create by ordinance a special fund or funds for a special capital improvement purpose. ~~The City Council may levy and collect taxes for capital improvements and may include in the annual tax levy a levy for such purposes in which event it must apportion and appropriate to any fund or funds the moneys derived from such levy. It may not, in making such levy, exceed the maximum tax rate provided for in this Charter, unless authorized by the affirmative votes of three-fifths of the electors voting on the proposition at any election at which such question is submitted.~~ The City Council may transfer to any such fund any unencumbered surplus funds remaining on hand in the City at any time.

Once created, such fund shall remain inviolate for the purpose for which it was created; if for capital improvements generally, then for any such purposes, and if for a special capital improvement, then for such purpose only, unless the use of such fund for some other capital improvement purpose is authorized by the affirmative votes of a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

If the purpose for which any special capital improvement fund has been created has been accomplished, the City Council may transfer any unexpended or unencumbered surplus remaining in such fund to the fund for capital improvements generally, established by this Charter. (As amended effective April 28, 1966)

RESTRICT OIL OPERATIONS

Amend Charter Section 1401

Section 1401. Oil Well Drilling.

No drilling, including off shore drilling originating from the ocean's surface, for, exploration work of any kind, production or refining of, oil, gas or other hydrocarbon

substances shall be permitted within the incorporated ~~that~~ area of the City of Newport Beach. ~~as such limits exist as of the effective date of this Charter.~~ These prohibitions shall apply to any actions ~~include~~ taken by the City of Newport Beach itself.

This Section, however, shall not prohibit the exploration or drilling for, production or processing ~~refining~~ of oil, gas or other hydrocarbon substances by vertical, slant or other drilling method originating from the surface within the approximately twenty (20) acres of ~~any~~ territory depicted and specifically described in Exhibits "A" and "B" to this Charter and incorporated herein by reference. ~~annexed to the City after the effective date of this Charter if such drilling, production or refining was being conducted in such territory at the date of the annexation thereof; but no such drilling, production or refining shall be permitted within any territory annexed to the City after the effective date of this Charter if such activities were not being conducted in such territory at the date of the annexation thereof.~~ The owner of property annexed into the City after December 7, 2010 shall have up to a maximum of ten years from the date of annexation to bring the property into compliance with this section.

This Section shall not prohibit the continuance of production of any well slant drilled under property within the City from a location outside the City and in existence at the time this Charter ~~takes~~ took effect. Nor shall this section preclude the City Council from permitting the slant drilling of wells under the surface of property within the City from surface locations located either outside the City or within future annexations to the City wherein the drilling for and production of oil, gas and other hydrocarbon substances is permitted. ~~However, if provided that~~ such slant drilling originates from the surface outside of the approximately twenty (20) acres of territory depicted in Exhibits "A" and "B" it shall first be approved by a majority of the electors voting on such proposition at any special or general municipal election, and provided further that all of the following conditions shall be complied with:

- (a) The holding of a public hearing upon any application for a permit to conduct such drilling;
- (b) The requiring of the removal of all derricks and other surface structures used in the drilling of such well upon completion or abandonment of such well;
- (c) The furnishing of a faithful performance surety bond and the maintenance of public liability and property damage insurance by the permittee in amounts deemed adequate by the City Council;

(d) The screening by landscaping and the beautification of any production and maintenance facilities used in the operation of any such well;

(e) Provisions for the payment to the City of such amounts as in the sound discretion of the Council are adequate amounts for the consideration or granting of such permit, the holding of such hearing, the making of initial and periodic inspections, the granting of easements under City property and for royalties or rentals;

(f) The requirement that no such well shall traverse any land under the area of the City wherein drilling is prohibited at a vertical depth of less than 400 feet from the surface of the ground; and

(g) Such other conditions as the City Council may prescribe by ordinance. (As amended effective April 23, 1958)

AMEND LEGAL DOCUMENT PUBLICATION REQUIREMENTS

Amend Charter Sections 414

Section 414. Ordinances. Publication.

The City Clerk shall cause each ordinance to be published [pursuant to the procedures established in California Government Code Section 36933 or any successor statute thereto](#). ~~at least once in the official newspaper within fifteen days after its adoption.~~

Repeal the text of Section 419 and reserve the section space for future use.

Section 419. ~~Reserved.~~ **Publishing of Legal Notices.**

~~In the event that there is more than one newspaper of general circulation published and circulated in the City, the City Council, annually, prior to the beginning of each fiscal year, shall publish a notice inviting bids and contract for the publication of all legal notices or other matter required to be published in a newspaper of general circulation in said City, during the ensuing fiscal year. In the event there is only one newspaper of general circulation published and circulated in the City, the City Council shall have the power to contract with such newspaper for the printing and publishing of such legal notices or matter without being required to advertise for bids therefor. The newspaper with which any such contract is made shall be designated the official newspaper for the publication of such notices or other matter for the period of such contract.~~

~~In no case shall the contract prices for such publication exceed the customary rates charged by such newspaper for the publication of legal notices of a private character.~~

~~In the event there is no newspaper of general circulation published and circulated in the City, then all legal notices or other matter may be published by posting copies thereof in at least three public places in the city.~~

~~No defect or irregularity in proceedings taken under this Section, or failure to designate an official newspaper, shall invalidate any publication where the same is otherwise in conformity with this Charter or law or ordinance.~~

SIMPLIFY FRANCHISE PROCESSES

Amend Charter Section 1301

Section 1301. Resolution of Intention. Notice and Public Hearing.

Unless a different procedure is established by the Municipal Code, bBefore granting any franchise, the City Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear before the City Council and be heard thereon. It shall direct the City Clerk to publish said resolution at least once, within fifteen days of the passage thereof, in the official newspaper. Said notice shall be published at least ten days prior to the date of hearing.

At the time set for the hearing the City Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the City Council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon.

INCREASE FORMAL BIDDING THRESHOLDS

Amend Charter Section 1110

Section 1110. Contracts on Public Works.

Every project for the construction or improvement of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds, and every purchase of supplies or materials for any such project, when the total expenditures required for the project

exceed One Hundred and Twenty-Five ~~Thirty~~ Thousand Dollars (\$~~12530~~,000), or such lesser amount as may be established by ordinance, shall be let by the City Council by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten days before the time for opening bids. This formal bid dollar amount shall be adjusted annually pursuant to an index specified by City Council resolution. Projects for the maintenance or repair of such facilities are excepted from the requirements of this paragraph if the City Council determines that such work can be performed more economically by a City department than by contracting for the doing of such work.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten percent (10%) of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or in the specifications referred to therein, the amount of his or her bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The City Council may reject any and all bids presented and may re-advertise in its discretion.

The City Council, without advertising for bids, or after rejecting bids, or if no bids were received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work in question may be performed better and more economically by the City with its own employees or the supplies or materials may be purchased more economically on the open market, and after the adoption of a resolution to this effect by at least five affirmative votes of the Council may proceed to have said work done or said supplies or materials purchased in the manner stated, without further observance of the provisions of this Section. Such contracts likewise may be let without advertising for bids, if such work or supplies or materials shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by resolution passed by at least five affirmative votes of the Council and containing a declaration of the facts constituting such urgency.

The City Council shall have the power to establish standards, procedures, rules or regulations relating to all aspects of the bidding, award and performance of any public

works contracts, including but not limited to, compensation paid for performance of such work.

ADJUST MISDEMEANOR PENALTIES

Amend Charter Section 1404

Section 1404. Violations.

(a) The violation of any provision of this Charter shall be deemed a misdemeanor, which may be prosecuted in the name of the People of the State of California, and be punishable by a fine ~~of~~ not exceeding One Thousand Dollars (\$1000.00) or by imprisonment in the City Jail for a term ~~of~~ not exceeding six (6) months or by both such fine and imprisonment. Additionally, such violations of this Charter may also be redressed by civil action and/or administrative citation.

(b) The City Council may make the violation of any ordinance of the City a misdemeanor or an infraction which may be prosecuted in the name of the People of the State of California. Unless specifically designated as an infraction, a violation of any ordinance of the City shall constitute a misdemeanor. The maximum fine and/or penalty for any violation of a City ordinance, whether a misdemeanor or an infraction, shall be established by ordinance. Additionally, the violation of any City ordinance may be addressed by civil action and/or administrative citation.

REQUIRE REDISTRICTING APPOINTMENTS EVERY TEN YEARS

Amend Charter Section 1005

Section 1005. Districts.

The City is hereby divided into seven districts, the names and respective boundaries of which shall be as established by ordinance. No ordinance changing and redefining the boundaries of any district shall be enacted within six months prior to any regular Councilmanic election.

Following the national census~~in 1959~~ and each ~~tenth~~fourth year thereafter the City Council shall appoint a committee to study and report to the City Council on the advisability of redistricting the City. Upon receipt of any such committee report, and at any other time deemed necessary or desirable in order that the district boundaries be fair and logical, the City Council may by ordinance change and redefine the boundaries of any or all of the seven districts herein established. The boundaries so defined shall

be established in such manner that the district shall, as nearly as practicable, constitute natural areas of contiguous and compact territory and provide fair representation on the City Council. Notwithstanding the provisions of Section 401, no redistricting shall disqualify any Council ~~member~~ ~~man~~ from serving as Council ~~member~~ ~~man~~ from the district from which he or she was nominated or appointed for the remainder of his or her term, if elected, or until the next general municipal election, if appointed. Any territory hereafter annexed to or consolidated with the City shall, at the time of such annexation or consolidation, be added by ordinance of the City Council to an adjacent district or districts.

AMEND CIVIL SERVICE SYSTEM

Amend Charter Provisions Governing the Civil Service System

Section 711. Civil Service Board. Powers and Duties.

The Civil Service Board shall have the power and duty to:

- (a) Recommend to the City Council, after a public hearing thereon, the adoption, amendment or repeal of civil service system rules and regulations. The rules and regulations, as may be adopted from time-to-time by the City Council, shall have the force and effect of law.
- (b) Act in an advisory capacity to the City Council on problems concerning personnel administration.
- (c) Receive and hHear appeals submitted by~~of~~ any person employed by~~in~~ the City ~~employment~~ relative to any appointment, promotion, suspension, demotion, ~~or~~ dismissal ~~and or other disciplinary action and to make determinations thereon.~~ ~~make findings and recommendations thereon.~~ The Board's determinations shall be final for persons included in the Civil Service System. The Board may modify or revoke a disciplinary action only upon the following three grounds:
 - 1. The facts do not justify the action taken, the action taken is unlawful or the action taken is superseded by local, state or federal law; or
 - 2. Substantive violation or omission of procedure was made; or
 - 3. The action taken was unreasonable, capricious or arbitrary in view of the offense, the circumstances surrounding the offense and the past employee record of the employee.

(d) Make any investigation concerning the administration of personnel in the municipal service and report its findings to the City Council and City Manager when requested to do so by the City Council, the City Manager or by any organized City Employees' association.

(e) Perform such other duties as may be prescribed by ordinance.

~~Section 800. Continuance of Present System.~~

~~The civil service system existing at the time this Charter takes effect, to the extent that the same is not inconsistent with any of the provisions of this Charter, is hereby continued in existence subject to all of the terms and provisions of this Charter and subject to amendment by proper authority as in this Charter provided.~~

Section 8004. Civil Service System to Be Maintained.

There shall be a Civil Service System to establish an equitable and uniform procedure for handling personnel matters; to attract to the City service the most competent persons available, to assure that the appointment and promotion of employees will be based on merit and fitness, and to provide reasonable security for employees.

The City Council shall by ordinance continuously maintain ~~this a civil service~~ system for the ~~selection,~~ employment, classification, advancement, suspension and discharge of those appointive officers and employees who shall be included in the system. The system shall comply with all other provisions of this Charter.

Section 8012. Positions Included in the System.

The civil service system shall include all full time, regular and permanent positions or employment on the Police and Fire Department of the City and may, by ordinance, include any other appointive officers or positions in the service of the City except the following:

1. All elective officers.
2. City Manager, Assistant City Manager, if any, one ~~private secretary~~ executive assistant to the City Manager, City Attorney, Assistant City Attorney, if any, City Clerk, Director of Finance, City Engineer, all Department Heads, and Assistant Chiefs in the Police and Fire Departments.~~all employees of the Library Department, including the Librarian.~~
3. All members of boards and commissions.

4. Positions in any class or grade created for a special or temporary purpose and which may exist for a period of not longer than six months in any one calendar year.
5. Persons employed to render professional, scientific, technical or expert service.
6. Persons who render part-time service without pay or who are paid on an hourly or per diem basis.

Section 8023. Withdrawal From System.

After inclusion in the system, any departments or appointive officers or employees shall not be withdrawn therefrom, either by an outright repeal of the civil service ordinance or otherwise, unless such withdrawal has been submitted to the city electors at a special or regular municipal election and approved by a majority of two-thirds of those electors voting on the proposition.

Repeal Ordinance No. 866 adopted by a vote of the people on November 24, 1958 and codified in Newport Beach Municipal Code Chapter 2.24.

2.24.010 Definitions.

The following terms, whenever used in this chapter shall be construed as follows:

~~Acting Appointment. The term “acting appointment” shall mean the temporary appointment of a person to a position in a class for which there is no employment list; to a position occupied by a regular employee on suspension as provided in Section 2.24.070; or to a position occupied by a probationary or regular employee who is on a leave of absence.~~

~~Allocation. The term “allocation” shall mean the assignment of a single position to the proper class in accordance with the specifications for that class.~~

~~Applicant. The term “applicant” shall mean a person whose application for employment has been accepted, but who has not yet taken part in the selection procedure for a class.~~

~~Board. The term “board” shall mean the Civil Service Board established pursuant to this chapter and the Newport Beach City Charter.~~

~~Candidate. The term “candidate” shall mean an applicant who is participating in the selection procedure for a class.~~

~~Certification. The term “certification” shall mean the act of notifying a department head of the candidates whose names appear on employment lists as set forth in Section 2.24.090.~~

~~City. The term “City” shall mean the City of Newport Beach.~~

~~City Charter. The term “City Charter” shall mean the City Charter of the City of Newport Beach.~~

~~City Council. The term “City Council” shall mean the City Council of the City of Newport Beach.~~

~~Class. The term “class” shall mean a group of positions sufficiently similar in duties, responsibilities, authority, and minimum qualifications for employment to permit combining them under a common title and the equitable application of common standards of selection and compensation.~~

~~Class Specifications. The term “class specifications” shall mean a written description of a class, setting forth factors and conditions which are essential characteristics of positions in the class.~~

~~Continuous Service. The term “continuous service” shall mean the service without break or interruption of an employee having a probationary or regular appointment.~~

~~Copyrighted or Standardized Tests. The phrase “copyrighted or standardized tests” shall mean written examinations which are used by agencies other than the City of Newport Beach.~~

~~Demotion. The term “demotion” shall mean the reduction of an employee from a position in one class to a position in another class which has a lower maximum rate of compensation.~~

~~Department Head. The term “department head” shall mean an employee who is the head of an established office or department.~~

~~Discharge. The term “discharge” shall mean the termination of a regular employee pursuant to Section 2.24.140.~~

~~Eligible. The term “eligible” shall mean a person whose name appears on an employment list.~~

~~Employee. The term “employee” shall mean a person legally occupying a position.~~

~~Employment Lists. The term “employment lists” as described in Section 2.24.090 shall mean a list of the names of candidates who are eligible for probationary appointments to positions in a particular class.~~

~~Entrance Level Position. The term “entrance level position” shall mean a position in the first or beginning class in a series of classes which have increasingly responsible duties and progressively higher minimum qualifications and compensation.~~

~~Exempt Position. The term “exempt position” shall mean those positions which either are specifically excluded by the City Charter from the Civil Service System or which are not included in the system in accordance with Section 2.24.020.~~

~~Layoff. The term “layoff” shall mean, as an economy measure, the separation of an employee because of lack of work or lack of funds.~~

~~Open Recruitment. The term “open recruitment” shall mean a recruitment that is not restricted to City employees.~~

~~Original Appointment. The term “original appointment” shall mean a person’s first appointment as an employee of the City of Newport Beach.~~

~~Permanent Position. The term “permanent position” shall mean a position that is expected to exist indefinitely.~~

~~Position. The term “position” shall mean a combination of current duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis.~~

~~Probationary Status. The term “probationary status” shall mean the status of a person who has acquired a probationary appointment.~~

~~Probation Period. The term “probation period” shall mean a working test period that is part of the selection process and during which an employee is required to demonstrate his fitness for the duties of the position to which he has been assigned by actual performance of such duties.~~

~~Promotion. The term “promotion” shall mean the advancement of an employee from a position in one class to a position in another class which has a higher maximum rate of compensation.~~

~~Promotional Recruitment. The term “promotional recruitment” shall mean a recruitment that is restricted to City employees.~~

~~Reallocation. The term “reallocation” shall mean the reassignment of a single position in a class to a different class on the basis of a change in the duties and responsibilities of the position.~~

~~Reassignment. The term “reassignment” shall mean the change of an employee by a department head from a position in a class to another position in the same class.~~

~~Recruitment. The term “recruitment” shall mean the process of attracting qualified persons to participate in a selection process for a class.~~

~~Regular Employee. The term “regular employee” shall mean an employee who has successfully completed his probationary period in a position.~~

~~Regular Status. The term “regular status” shall mean the status of an employee who has acquired a regular appointment.~~

~~Reinstatement. The term “reinstatement” shall mean the reemployment of a former employee.~~

~~Rejection. The term “rejection” shall mean separation from the City service of an employee who does not successfully complete his probation period in a position and who does not have regular status in another position in a different class; or, the reduction of an employee who did not successfully complete his probation period in a position to another position in a different class in which he has acquired regular status.~~

~~Resignation. The term “resignation” shall mean an employee’s voluntary separation.~~

~~Rules and Regulations. The term “rules and regulations” shall mean the Civil Service rules and regulations adopted pursuant to this chapter.~~

~~Selection. The term “selection” shall mean the process of evaluating the qualifications of candidates through one or more techniques.~~

~~Separation. The term “separation” shall mean the termination of an employee’s service with the City.~~

~~Suspension. The term “suspension” shall mean the temporary separation of an employee as a disciplinary action.~~

~~System. The term “system” shall mean the Civil Service System created in accordance with this chapter and the Newport Beach City Charter, and including only those positions to which the provisions of this chapter apply.~~

~~Temporary Position. The term “temporary position” shall mean a position of limited duration.~~

~~Transfer. The term “transfer” shall mean a change of an employee from one position to another position in the same class or in another class having the same maximum salary rate, involving the performance of basically similar duties, and requiring substantially the same minimum qualifications.~~

~~Vacancy. The term “vacancy” shall mean a position that is not occupied by an employee having either a probationary or regular appointment.~~

~~2.24.020 Inclusion in System.~~

~~Pursuant to Article VIII of the City Charter, all full-time, regular, and permanent positions and employment in the Police and Fire Departments are included in the system, except those positions excluded by Section 802, of the City Charter. The City Council, by ordinance, may include in the system positions in other departments.~~

~~2.24.030 Purpose of System.~~

~~The purpose of the system is to establish an equitable and uniform procedure for dealing with personnel matters; to attract to the City service the most competent persons available; to assure that the appointment and promotion of employees will be based on merit and fitness; and to provide reasonable security for employees.~~

~~2.24.040 Board Established.~~

~~There is hereby established a Civil Service Board consisting of five members to be appointed by the City Council in accordance with the City Charter. Each of the members shall be a person of good repute in his business, profession or occupation and known to support civil service principles in the public service.~~

~~2.24.050 Responsibilities and Authority of Board.~~

~~The functions of the Board shall be:~~

~~A. Meetings. To determine the order of business for the conduct of its meetings; to hold regular meetings at least once a month and such special meetings as are necessary on call of the chairman or a majority of the members of the Board, and to keep a record of its proceedings and transactions. A majority of the members of the Board shall constitute a quorum for the transaction of business.~~

~~B. Rules and Regulations. To recommend to the City Council, after approval by the City Attorney and after a public hearing thereon, the adoption, amendment, or repeal of rules and regulations to implement the provisions of this chapter. After adoption by motion of the City Council, such rules and regulations shall have the force and effect of law.~~

~~C. Appeals. To receive and hear appeals submitted by any person or any applicant or candidate for a position in the City employment relative to original appointment, promotion, dismissal, demotion, suspension and other disciplinary actions; the alleged violation of this chapter or the rules and regulations; and to certify its finding and recommendations as provided in this chapter.~~

~~D. Advisory Role. To act in an advisory capacity to the City Council on personnel administration in the City service.~~

~~E. Recruitment and Selection. Subject to the provisions of this chapter and the rules and regulations, to establish policies and approve procedure for the recruitment and selection of Civil Service personnel, including, but not limited to, the posting of recruitment notices, the preparation and scoring of examinations, and the establishment and certification of employment lists.~~

~~F. Investigations. To make any investigation concerning the administration of personnel in the City service and report its finding to the City Council and City Manager when requested to do so by the City Council, the City Manager or by any organized City employee's association.~~

~~In any investigation or hearing it conducts, the Board shall have the authority to examine witnesses under oath and to compel their attendance or the production of evidence before it by subpoenas issued in the name of the City and attested by the City Clerk. It shall be the duty of the Police Chief to cause all such subpoenas to be served, and refusal of a person to attend or to testify in answer to such subpoenas shall subject said person to prosecution in the same manner set forth by law for failure to appear before the City Council. Each member of the Board shall have the power to administer oaths to witnesses.~~

~~2.24.060 Responsibilities and Authority of City Manager.~~

~~The City Manager shall be responsible for the following:~~

~~A. Rules and Regulations. Preparation of amendments to the rules and regulations for recommendation to the Board. The City Attorney shall approve the legality of such~~

~~amendments prior to their submission by the Board to the City Council for its approval. Rules and regulations shall be adopted by motion of the City Council.~~

~~B.—Class Specifications. Subject to approval by the Board, the preparation and revision of class specifications for positions included in the system.~~

~~C.—Personnel Procedures. Administration of Board policies and procedures within the framework of this chapter and the rules and regulations, including:~~

~~1.—Public announcement of vacancies and examinations and the review of applications for employment.~~

~~2.—Preparation and conduct of examinations and the establishment and use of employment lists.~~

~~3.—Certification and appointment of eligibles.~~

~~4.—Evaluation of employees during probation periods and periodically thereafter.~~

~~5.—Appointment, transfer, promotion, demotion, rejection, layoff, dismissal and reinstatement of employees.~~

~~6.—Allocation of positions to classes on the basis of duties, responsibilities and minimum qualifications.~~

~~7.—Maintenance and use of personnel records.~~

~~8.—Maintenance of effective communications between employees and their supervisors; between employees and the City Manager; and between employees and the Board relative to conditions of employment.~~

~~2.24.070 Appointments.~~

~~A.—General Policy. Appointments shall be based on merit and fitness to be ascertained so far as practicable by competitive examination. Appointments shall be made from employment lists by the department head on approval of the City Manager.~~

~~B.—Employment Lists. Subject to the provisions of this chapter with respect to reemployment lists and the selection of the Police and Fire Chiefs, when an appointment is to be made the names of the highest three eligibles willing to accept~~

~~appointment shall be certified to the department head in the order which they appear on the appropriate employment list and the appointment shall be limited to these eligibles.~~

~~C.—— Acting Appointments. In the absence of an employment list for a class, a vacant position in that class may be filled by an acting appointment. No credit shall be allowed in any examination or the establishment of any employment list for service rendered under an acting appointment.~~

~~D.—— Temporary Positions. Appointments to temporary positions need not be made from employment lists.~~

~~E.—— During Suspension. During the period of suspension of a regular employee from a position or pending final action on proceedings to review the suspension, demotion, or dismissal of a regular employee, the position may be filled only by an acting appointment.~~

~~F.—— Transfers. With the approval of the City Manager, an employee may be transferred from one position to another. Transfers shall not affect in any way the status, rights and privileges of an employee under this chapter.~~

~~G.—— Reinstatement. Provisions governing the reinstatement of a former employee shall be provided in the rules and regulations.~~

~~2.24.080 Recruitment and Selection.~~

~~A.—— Recruitment. Recruitment shall be specified by the Board as promotional or as open. Insofar as practical and consistent with the best interests of the City service, all vacancies shall be filled by promotion.~~

~~B.—— Selection.~~

~~1.—— The scope of an examination for a class shall be approved by the Board and stated in the examination announcement. It may consist of any one or a combination of the following techniques: written, oral, and demonstration tests; and appraisal of education and experience; and any test of manual skills or physical fitness which fairly evaluates the candidates;~~

~~2.—— A probation period as established in the rules and regulations shall apply to all appointments to positions included in the system, except acting appointments. Successive probation periods in a position shall not be allowed. In the event of promotion to a position in a higher class and at any time within his probation period in that position, an employee may be rejected by the~~

~~department head and reduced to the position he occupied prior to such promotion without right of appeal to the Board, provided he had acquired regular status in such former position. If the employee had not acquired regular status in the system prior to such promotion, he may be discharged without right of appeal to the Board.~~

~~2.24.090 Employment Lists.~~

~~A.—— Priorities. Priority for consideration for employment shall be given to employment lists in the following order: reemployment lists, promotional employment lists, and open employment lists.~~

~~B.—— Reemployment Lists. The reemployment list for a class shall consist of the names of the following:~~

~~1.—— Layoff: Regular employees who have been laid off for lack of work or lack of funds.~~

~~2.—— Position reallocation: Regular employees whose positions in a class have been reallocated to a class with a lower maximum rate of compensation.~~

~~Such names shall be placed on the list in reverse order of layoff or position reallocation. The order of layoff or position reallocation shall be on the basis of inverse employee seniority in the class.~~

~~C.—— Promotional Employment Lists. Promotional employment lists shall consist of the names of City employees who have been successful in a promotional recruitment and examination.~~

~~D.—— Open Employment Lists. Open employment lists shall consist of the names of all candidates who have been successful in an open recruitment and examination.~~

~~E.—— Layoffs. The names of probationary employees who are laid off or reduced in rank for lack of work or lack of funds shall be restored to the same promotional or open employment list from which the original appointment was made and in the same order as when the original appointment was made.~~

~~F.—— Certification. Certification shall be made in conformance with the following provisions:~~

~~1. If a reemployment list exists for the class, the highest name on such list shall be certified for each vacancy to be filled. Names on promotional or open employment lists shall not be certified if a reemployment list for the class exists.~~

~~2. Except for acting appointments, no person may be appointed or transferred to any position in the system unless he possesses the minimum qualifications set forth in the class specifications for that position.~~

~~G. Duration. The duration of employment lists shall be as prescribed in the rules and regulations.~~

~~2.24.100 Selection of Fire and Police Chiefs.~~

~~A. Intent. It is the intent of this section that vacancies in the position of Police Chief and Fire Chief be filled by the best qualified persons available as determined by competitive examination. Qualifications being substantially equal, preference shall be given to candidates in the Newport Beach Fire and Police Departments who qualify under the selection process herein described.~~

~~B. Not Included in System. This section shall not be construed to include the positions of Police Chief and Fire Chief in the system.~~

~~C. Selection Process. The selection of the Police Chief and Fire Chief shall be made by the City Manager from among the candidates whose names appear on an open employment list for the class. Such list shall be created as a result of an examination consisting of a written test weighted at fifty percent and qualifications appraisal weighted at fifty percent. The minimum qualifying score on each phase of the examination shall be seventy percent.~~

~~D. Preparation of Written Test. The written test shall be prepared by a professional personnel agency designated by the City Manager with the approval of the Civil Service Board.~~

~~E. Qualifications Appraisal Board. The qualifications appraisal board which interviews candidates successful on the written test shall consist of the following:~~

~~1. The Chairman and one other Board member selected by the Board.~~

~~2. Two chiefs selected by the Board from other Police or Fire Departments in cities with populations comparable to Newport Beach.~~

~~3. One person selected by the City Manager.~~

~~F.— Establishment of Qualification Factors. The scope of the written test and the factors to be rated by the qualifications appraisal board shall be jointly established by the City Manager and the Board.~~

~~G.— Conformance to Minimum Qualifications. In order to be eligible to compete in the selection process for Police Chief or Fire Chief, all candidates must possess the minimum qualifications set forth in the class specifications. Such class specifications shall be prepared by the City Manager with the approval of the Board.~~

2.24.110 Examination Announcements.

~~Examination announcements shall be posted not less than two weeks prior to the final date for submitting applications. Such posting shall be in a conspicuous place at the City Hall, at the office of the appropriate department, and at such other places as the Board deems appropriate.~~

2.24.120 Inspection of Examination Papers.

~~A.— In General. The examination papers of candidates are not subject to inspection by the public. Upon request made within seven days after the notices of the examination results have been mailed, any candidate may inspect his own examination papers, including the questions and his answers, excepting copyrighted or standardized tests. On copyrighted or standardized tests the candidate may review the accuracy of scoring and computations by comparing his answer sheet with the key answer sheet. The written comments of a qualifications appraisal board and the written evaluation of a psychiatrist, if any, shall not be reviewed by the candidate. On request of the candidate, his rating by the qualifications appraisal board shall be summarized for his information.~~

~~B.— Review Procedure. If the candidate believes an error has been made in the grading of his examination or in the credit given to him, he may, within twelve days after the mailing of examination results, make written application to the Board for a review; provided, however, that in such application he must state specifically and particularly wherein he believes an error has been made.~~

~~Upon receipt of such application and in no case later than its next regular meeting, the Board shall examine the candidate's papers and grades. Any error or injustice shall be corrected, and any change in the order of standing of candidates as a result thereof shall be made by the Board. No appointments shall be made from the employment lists until the Board has acted upon such application. The Board's decision shall be final.~~

2.24.130 Conditions for Employment.

~~A.— Applications. The Board shall have the right to require all applicants to submit applications, agreements, or statements pertinent to their employment.~~

~~B.— Exempt Positions. Where there is no actual break in continuous service, an employee having probationary or regular status in a position in the system who is appointed to an exempt position, shall retain such status in the Civil Service position. Upon vacating the exempt position, the employee shall on his request be restored to his former status in the position unless the reason for such vacating is sufficient grounds for discharge from the City service as described in this chapter.~~

~~This provision shall not apply to an employee who resigns from a position in the system and, without a break in his continuous service with the City, is appointed to an exempt position.~~

~~**2.24.140 Employee Appeals.**~~

~~The Board shall convene in regular or special meetings for the purpose of reviewing appeals of regular employees as follows: Any regular employee in the system who has been suspended, demoted, or discharged may, within a period of five days after such action, request of the department head a written statement of the reasons for such action. The department head shall furnish such statement within five days thereafter. The employee may, within ten days thereafter, file a written answer to such reason with the Board. The Board shall within fifteen days investigate the case, and shall schedule a hearing. The hearing shall be a closed hearing at the request of the employee.~~

~~**2.24.150 Grounds for Demotion, Suspension or Discharge.**~~

~~Employees in the system may be demoted, suspended, or discharged only on the following grounds: Incompetency; inefficiency; dishonesty; misconduct; insubordination; or failure to observe departmental or City rules and regulations.~~

~~**2.24.160 Board Hearings.**~~

~~A.— In General. Board hearings need not be conducted according to technical rules relating to evidence and witnesses.~~

~~B.— Right to Counsel. The employee may be represented by counsel and shall have the right to produce witnesses to testify in his behalf. The Board shall issue subpoenas and compel the attendance of all witnesses.~~

~~C.— Modification of Disciplinary Action. The Board may modify or revoke a disciplinary action only on the following grounds:~~

- ~~1.— The facts do not justify the action taken.~~

~~2. Substantive violation or omission of procedure was made.~~

~~3. The action taken was unreasonable, capricious or arbitrary in view of the offense, the circumstances surrounding the offense, and the past record of the employee.~~

~~D. Reimbursement. An employee shall be reimbursed for a loss of pay arising from a disciplinary action against him to the extent that it is subsequently revoked or modified by the Board. Reimbursement shall be confined to the period of time between the date of such disciplinary action and the date of the Board's final decision as set forth in Section 2.24.160.~~

~~E. Findings. The Board shall certify copies of its findings and decisions to the City Manager, the department head from whose action the appeal was made, and the appellant employee. The Board's decision shall be final.~~

2.24.170 Political Activities.

~~A. Prohibited. Any person occupying a position included in the system shall not:~~

~~1. Take an active part in a County of Orange or City political campaign.~~

~~2. Act as a worker at the polls or distribute badges, pamphlets, dodgers, or handbills of any kind favoring or opposing any candidate for election or nomination to a County of Orange or City office.~~

~~B. Unaffected. This chapter does not prohibit any person occupying a position included in the system from:~~

~~1. Becoming or continuing to be a member of a political club or organization.~~

~~2. Attending a political meeting.~~

~~3. Enjoying complete freedom from interference of any kind in casting his vote.~~

~~4. Seeking or accepting election or appointment to a public office while on leave of absence.~~

~~5. Seeking signatures to any initiative or referendum petition directly affecting his rates of compensation, hours of work, retirement, or other conditions of employment.~~

~~6. Distributing badges, pamphlets, dodgers or handbills, or other activities in connection with such petition if not carried on during his hours of work or when he is dressed in the uniform required in his City department.~~

~~**2.24.180 Status of Prior Employees.**~~

~~Any employee who, prior to November 29, 1958, attained probationary or regular status in the system shall retain such status. Employees in permanent positions in the Police and Fire Departments on such date who had not previously been considered as being in the system shall on such date be presumed to have completed their probation periods and shall acquire regular status in the system.~~

~~**2.24.190 Conflicts with City Charter.**~~

~~In the event of any conflict between this chapter and the City Charter, the provisions of the City Charter shall prevail.~~

~~**2.24.200 Codification Conditions—Amendments.**~~

~~Ordinance 866 may be codified by the City Council in a single chapter of the Newport Beach Municipal Code, but may not be repealed or amended except by a majority vote of the electors voting thereon at any general or special municipal election. A majority of two-thirds of the electors voting thereon is necessary for the approval of any amendment or repeal that withdraws any department, officer or employee from the system.~~

~~**2.24.210 Penalty for Violation.**~~

~~Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1.04.010.~~

REPEAL LIMITATION ON CHAMBER OF COMMERCE CONTRIBUTION

Repeal Ordinance No. 743 adopted by a vote of the people on March 15, 1955 and codified in Newport Beach Municipal Code Chapter 3.24.

~~**3.24.010 Appropriation of Funds to Chamber of Commerce.**~~

~~The funds which the City Council may in its discretion appropriate to the local Chamber of Commerce for promotion, publicity, advertising, and entertainment purposes for the benefit of the City shall be limited to the sum of two thousand four hundred dollars (\$2,400.00) annually.~~

REPEAL LIMITATION ON LONG TERM CONTRACTS

Repeal the text of Section 420 and reserve the section space for future use.

Section 420. Reserved.~~Contracts. Restrictions.~~

~~The City Council shall not have the power to make or authorize any contract or lease or extension thereof for a longer period than twenty-five years unless said contract, lease or extension be approved by a majority of the qualified electors of the City voting on such question at any election. A contract, lease or extension for a longer period shall be valid without such approval if it provides for the acquisition by the City at the end of such period of the real or personal property so leased or contracted for. This Section shall not apply to any franchise granted pursuant to the provisions of this Charter or to any contract for the furnishing, or acquisition of the products, commodity or services of any public utility.~~

SALE OF WATER FRONT PROPERTY

Amend Charter Section 1402

Section 1402. Water-front Property.

The City Council shall not sell or convey any water-front or beach property, excepting to the State or to the County for use as a public beach or park, without an affirmative vote of the electorate at a general or special election.

Notwithstanding any other provision of this Charter, the City Council shall have the authority to lease City-owned property, including tide and submerged lands so long as the lease is limited to the term permitted by State law.

Nothing in this Section shall invalidate any lease of such property in existence at the time of the effective date of the Charter nor the future leasing or re-leasing of any such property under lease at the effective date of this Charter.

There shall be reserved forever to the people the public use of a strip of bay front land above mean high tide not less than eighty-five feet in depth of the city-owned water front property bounded on the west by the southeasterly line of Nineteenth Street and bounded on the east by a line parallel thereto lying 349.90 feet northwesterly of the northwesterly line of Fifteenth Street, said frontage to be bay front frontage.

CITY MANAGER'S RESIDENCY (ADMINISTRATIVE CHANGE)

Repeal the text of Section 501 and reserve the section space for future use.

Section 501. Reserved.~~Residence.~~

~~The City Manager need not be a resident of the City at the time of his appointment, but he shall establish his residence within the City within ninety days after his appointment, unless such period is extended by the City Council, and thereafter maintain his residence within the City during his tenure of office.~~

GENDER NEUTRAL REFERENCES (ADMINISTRATIVE CHANGES)

Update Various Charter Sections to be Gender Neutral

Section 402-B. Reimbursement for Expenses.

The members of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling expenses when on official duty. In addition, each member shall receive the sum of four hundred forty-one dollars and Fifteen Cents (\$441.15) per month, adjusted annually in accordance with the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, or five percent (5%) whichever amount is lesser, as reimbursement for other expenditures imposed upon him in serving as a City Council member~~man~~. Absence of a Council member~~man~~ from all regular and special meetings of the Council during any calendar month shall render such Council member~~man~~ ineligible to receive such sum for such calendar month.

Section 403. Vacancy.

A vacancy in the City Council from whatever cause arising, shall be filled by appointment by the City Council of a qualified person from the district in which the vacancy has occurred, such appointee to hold office until the first Tuesday following the next general municipal election and until his or her successor qualifies. At the next general municipal election following any vacancy, a Council member~~man~~ shall be elected from the district in which the vacancy exists to serve for the remainder of the unexpired term.

If a member of the City Council absents himself or herself from all regular meetings of the City Council for a period of sixty days consecutively from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral

turpitude, or ceases to be a qualified elector of his or her district, his or her office shall become vacant and shall be so declared by the City Council.

In the event the City Council shall fail to fill a vacancy by appointment within thirty days after such office shall have been so declared vacant, it shall forthwith cause an election to be held to fill such vacancy from the proper district.

Section 406. Interference in Administrative Service.

Neither the City Council nor any of its members shall interfere with the execution by the City Manager of his or her powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the department heads in the administrative service of the City, of any person to an office or employment or his or her removal therefrom. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

Section 500. City Manager.

There shall be a City Manager appointed by the City Council who shall be the chief administrative officer of the City. In the selection of a City Manager the City Council shall screen all qualified applicants and other qualified persons known by the Council to be available. It shall appoint by a majority vote, the person that it believes to be best qualified on the basis of his or her executive and administrative qualifications, with special reference to his or her experience in, and his or her knowledge of, accepted practice in respect to the duties of the office as set forth in this Charter. The City Manager shall serve at the pleasure of the City Council.

Section 502. Eligibility.

No person shall be eligible to receive appointment as City Manager while serving as a member of the City Council nor within one year after he or she has ceased to be a City Council ~~member~~man.

Section 503. Compensation and Bond.

The City Manager shall be paid a salary commensurate with his or her responsibilities as chief administrative officer of the City, which salary shall be established by ordinance or resolution. The City Manager shall furnish a corporate surety bond in such form and in such amount as may be determined by the City Council.

Section 504. Powers and Duties.

The City Manager shall be the head of the administrative branch of the City government. He or she shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Manager shall have power and be required to:

(a) Appoint, and he or she may suspend or remove, subject to the provisions of this Charter, all department heads and officers of the City except elective officers and those department heads and officers the power of whose appointment is vested by the Charter in the City Council, and approve or disapprove all proposed appointments and removals of subordinate employees by officers or department heads.

(b) Prepare the budget annually, submit such budget to the City Council and be responsible for its administration after its adoption.

(c) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding fiscal year.

(d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him or her desirable.

(e) Establish a centralized purchasing system for all City offices, departments and agencies.

(f) Prepare rules and regulations governing the contracting for, purchasing, storing, distribution, or disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the City Council for adoption by it.

(g) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances of the City are enforced.

(h) Exercise control of all administrative offices and departments of the City and of all appointive officers and employees except those directly appointed by the City Council and prescribe such general rules and regulations as he or she may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his jurisdiction.

(i) Perform such other duties consistent with this Charter as may be required of him or her by the City Council.

Section 602. City Attorney. Powers and Duties.

To become and remain eligible for City Attorney the person appointed shall be an attorney at law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least three years prior to his or her appointment. The City Attorney shall have power and may be required to:

(a) Represent and advise the City Council and all City Officers in all matters of law pertaining to their offices.

(b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or City ordinances. He or she shall prosecute misdemeanor offenses arising under State law if authorized and directed to do so by ordinance or resolution adopted by the City Council.

(c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all actions or proceedings in which any such officer or employee is concerned or is a party for any act arising out of his or her employment or by reason of his or her official capacity.

(d) Attend all regular meetings of the City Council and give his or her advice or opinion in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.

(e) Approve the form of all contracts made by and all bonds given to the City, endorsing his or her approval thereon in writing.

(f) Prepare any and all proposed ordinances and resolutions for the City and amendments thereto.

(g) Devote such time to the duties of his or her office as may be specified in the ordinance or resolution fixing the compensation for such office.

(h) Surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

The City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

Section 603. City Clerk. Powers and Duties.

The City Clerk shall have power and be required to:

- (a) Attend all meetings of the City Council unless excused and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purpose.
- (b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter; keep all books properly indexed and open to public inspection when not in actual use.
- (c) Maintain separate books, in which a record shall be made of all written contracts and official bonds.
- (d) Be the custodian of the seal of the City.
- (e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.
- (f) Be ex-officio Assessor, unless the City Council has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by county officers, or unless the City Council by ordinance provides otherwise.
- (g) Have charge of all City elections.
- (h) Perform such other duties consistent with this Charter as may be required of him [or her](#) by ordinance or resolution of the City Council.

Section 605. Director of Finance.

There shall be a Director of Finance appointed by the City Manager and subject to suspension or removal by the City Manager who shall have power and shall be required to:

- (a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager, and be head of the Finance Department of the City.
- (b) Compile the budget expense and income estimates for the City Manager.

- (c) Maintain a general accounting system for the City government and each of its offices, departments and agencies.
- (d) Receive all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal Government, or from any Court, or from any office, department, or agency of the City.
- (e) Have custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit all funds coming into his or her hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.
- (f) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit, approve and provide for the payment of all bills, invoices, payrolls, demands or charges against the City and, with the advice of the City Attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges.
- (g) See that all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and all other money receivable by the City from the County, State or Federal Government, or from any court, office, department or agency of the City are collected.
- (h) Through the City Manager submit to the City Council and to the certified public accountant employed by the City as an independent auditor a monthly statement of all receipts, disbursements and fund balances in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report.
- (i) Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.
- (j) Assume the title of and act as City Treasurer and with the approval of the City Manager appoint deputies as necessary to act under the provisions of any law requiring or permitting action by a City Treasurer.

(k) Perform such other duties consistent with this Charter as may be required of him or her by ordinance or resolution of the City Council.

Section 606. Administering Oaths.

Each department head and his or her deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his or her department.

Section 607. Department Heads. Appointment Powers.

Each department head and appointive officer shall have the power to appoint, suspend and remove such deputies, assistants, subordinates and employees as are provided for by the City Council for his or her department or office, subject to the provisions of this Charter and of any personnel, merit or civil service system adopted hereunder. Any such appointment or removal by a department head appointed by the City Manager shall be subject to approval by the City Manager.

Section 608. Illegal Contracts. Financial Interest.

No member of the City Council, department head or other officer of the City (except a member of any board or commission), shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the City is a party.

No member of any board or commission shall be financially interested directly or indirectly, in any contract, sale or transaction to which the City is a party and which comes before the board or commission of which such person is a member for approval or other official action or which pertains to the department, office or agency of the City with which such board or commission is connected.

Any contract, sale or transaction in which there shall be such an interest, as specified in this Section, shall become void at the election of the City when so declared by resolution of the City Council.

No member of the City Council, department head or other officer of the City, or member of any board or commission shall be deemed to be financially interested, within the meaning of the foregoing provisions, in any contract made with a corporation where his or her only interest in the corporation is that of a stockholder and the stock owned by him or her shall amount to less than three percent (3%) of all the stock of such corporation issued and outstanding.

If any member of the City Council, department head or other officer of the City, or member of a board or commission shall be financially interested as aforesaid, upon

conviction thereof he or she shall forfeit his or her office in addition to any other penalty which may be imposed for such violation of this Charter.

Section 609. Acceptance of Other Office.

Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated his or her office under the City Government.

Section 610. Nepotism.

The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such City Council, nor shall any department head or other officer having appointive power appoint any relative of his or hers within such degree to any such position.

Section 611. Official Bonds.

The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his or her bond, for any wrongful act or omission of his or her subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

Section 704. Meetings. Chairpersonmen.

As soon as practicable, following the first day of July of every year, each of such boards and commissions shall organize by electing one of its members to serve as presiding officer at the pleasure of such board or commission. Each board or commission shall hold regular meetings at least once each month and such special meetings as such board or commission may require. All proceedings shall be open to the public.

Except as may be otherwise provided in this Charter, the City Manager shall designate a secretary for the recording of minutes for each of such boards and commissions, who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations which shall be consistent with this Charter and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection. Each board or commission shall have the same power as

the City Council to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it and to administer oaths and affirmations.

Section 705. Compensation. Vacancies.

The members of boards and commissions shall serve without compensation for their services as such but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council. In addition, the City Council may by resolution fix an amount as reimbursement of other expenditures incurred by the members of boards and commissions while in the performance of their official duties.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the City Council. Upon a vacancy occurring leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission absents himself or herself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a registered elector of the City, his or her office shall become vacant and shall be so declared by the City Council.

Section 1004. Voters Signing Nomination Petitions.

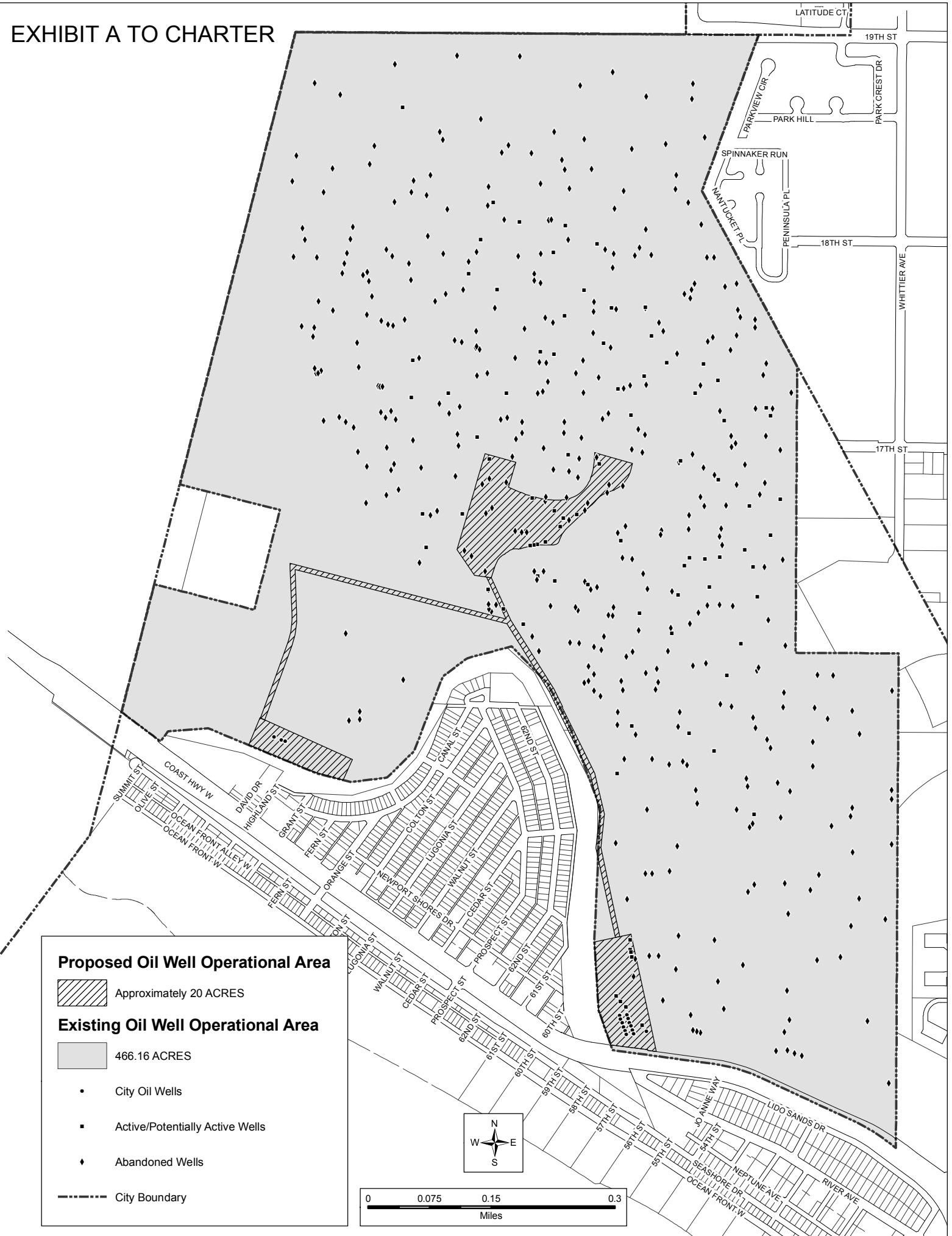
The voters signing and petition for the nomination of any person to the office of Council member ~~man~~ shall be residents and registered voters of the district from which such person is to be nominated.

Section 1101. Annual Budget. Preparation by the City Manager.


At such date as the City Manager shall determine, each board or commission and each department head shall furnish to the City Manager estimates of revenue and expenditures for his or her department for such board of commission for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions and may revise the estimates as he or she may deem advisable.

End

EXHIBIT A TO CHARTER



Proposed Oil Well Operational Area

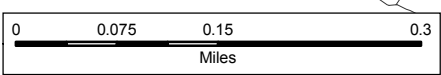
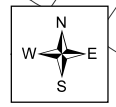
 Approximately 20 ACRES

Existing Oil Well Operational Area

 466.16 ACRES

- City Oil Wells
- Active/Potentially Active Wells
- ◆ Abandoned Wells

 City Boundary



**EXHIBIT A
LEGAL DESCRIPTION**

ALL THOSE CERTAIN LANDS SITUATED PARTLY IN THE CITY OF NEWPORT BEACH AND PARTLY IN THE UNINCORPORATED TERRITORY OF ORANGE COUNTY, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 1:

BEGINNING AT A POINT IN THAT CERTAIN COURSE IN THE EXISTING NEWPORT BEACH CITY BOUNDARY SHOWN AS "SOUTH 68°22'45" EAST 756.00 FEET" ON A MAP FILED IN BOOK 65, PAGES 31 THROUGH 36 OF RECORDS OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DISTANT THEREON SOUTH 68°22'45" EAST 280.00 FEET FROM THE NORTHWESTERLY TERMINUS THEREOF; THENCE ALONG SAID NEWPORT BEACH CITY BOUNDARY SOUTH 68°22'45" EAST 476.00 FEET TO AN ANGLE POINT THEREIN; THENCE CONTINUING ALONG SAID BOUNDARY SOUTH 76°51'00" EAST 171.96 FEET; THENCE LEAVING SAID BOUNDARY NORTH 23°17'40" EAST 144.41 FEET; THENCE NORTH 66°42'20" WEST 650.57 FEET TO A LINE WHICH BEARS NORTH 21°37'15" EAST FROM THE POINT OF BEGINNING; THENCE SOUTH 21°37'15" WEST 188.68 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 113,953 SQUARE FEET OR 2.616 ACRES MORE OR LESS.

AS SHOWN ON EXHIBIT B-PARCEL 1 ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PARCEL 2:

BEGINNING AT THE NORTHERLY TERMINUS OF THAT CERTAIN COURSE IN THE EXISTING NEWPORT BEACH CITY BOUNDARY SHOWN AS "SOUTH 4°31'33" EAST 439.65 FEET" ON SAID RECORD OF SURVEY, SAID POINT ALSO BEING ON THE NORTHWESTERLY LINE OF PARCEL "A" AS DESCRIBED IN QUITCLAIM DEED TO THE CITY OF NEWPORT BEACH, RECORDED APRIL 12, 1983 AS INSTRUMENT NO. 83-151675

**EXHIBIT A
LEGAL DESCRIPTION**

OF OFFICIAL RECORDS OF ORANGE COUNTY;
THENCE ALONG SAID CITY BOUNDARY SOUTH 4°31'33" EAST 439.65 FEET AND
SOUTH 20°11'42" EAST 233.33 FEET TO A POINT IN THE NORTHERLY LINE OF
PARCEL 73170-1 IN THAT CERTAIN FINAL DECREE OF CONDEMNATION, SUPERIOR
COURT CASE NO. 667539, A CERTIFIED COPY OF WHICH WAS RECORDED
JANUARY 14, 1994 AS INSTRUMENT NO. 94-0032786 OF OFFICIAL RECORDS OF
ORANGE COUNTY; THENCE ALONG SAID NORTHERLY LINE SOUTH 83°25'55" EAST
241.16 FEET, SOUTH 6°42'45" WEST 5.00 FEET AND SOUTH 83°17'15" EAST 54.65 FEET
TO THE INTERSECTION WITH THE NORTHEASTERLY LINE OF SAID PARCEL "A";
THENCE ALONG SAID NORTHEASTERLY LINE AND ITS NORTHWESTERLY
PROLONGATION NORTH 12°59'57" WEST 770.26 FEET TO ITS INTERSECTION WITH
WITH THE NORTHEASTERLY PROLONGATION OF SAID NORTHWESTERLY LINE OF
PARCEL "A";
THENCE ALONG SAID PROLONGATION AND NORTHWESTERLY LINE
SOUTH 77°00'03" WEST 241.44 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 200,487 SQUARE FEET OR 4.603 ACRES MORE OR LESS.

AS SHOWN ON EXHIBIT B-PARCEL 2 ATTACHED HERETO AND BY THIS REFERENCE
MADE A PART HEREOF.

PARCEL 3:

COMMENCING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE IN
THE CENTERLINE OF A 30.00 FOOT EASEMENT FOR SEWER AND ROAD PURPOSES PER
SUPERIOR COURT CASE NO. 24763 SHOWN AS "NORTH 76°32'23" WEST 1596.18 FEET"
ON SAID RECORD OF SURVEY;
THENCE NORTH 28°40'56" WEST 325.82 FEET TO THE **POINT OF BEGINNING**;
THENCE SOUTH 82°37'16" EAST 43.30 FEET TO A POINT ON A NON-TANGENT CURVE
CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 231.91 FEET, A RADIAL LINE TO

EXHIBIT A
LEGAL DESCRIPTION

SAID POINT BEARS NORTH 76°16'11" WEST;
THENCE NORTHEASTERLY ALONG SAID CURVE 118.37 FEET, THROUGH A CENTRAL ANGLE OF 29°14'39" TO A POINT OF NON-TANGENCY WITH A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 194.00 FEET, A RADIAL LINE FROM THE CENTER OF SAID 194.00 FOOT RADIUS CURVE BEARS NORTH 48°19'12" WEST;
THENCE NORTHEASTERLY ALONG SAID CURVE 53.36 FEET, THROUGH A CENTRAL ANGLE OF 15°45'35" TO A POINT OF REVERSE CURVE, HAVING A RADIUS OF 258.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 32°33'37" EAST;
THENCE NORTHEASTERLY 36.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'52" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 40.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 40°39'29" WEST;
THENCE EASTERLY 36.09 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 51°41'45" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 73.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 11°02'16" WEST;
THENCE EASTERLY 39.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°36'35" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 432.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 19°34'19" WEST;
THENCE EASTERLY 161.89 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21°28'18" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 245.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 01°53'59" WEST;
THENCE EASTERLY 52.80 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°20'51" TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 54.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 10°26'52" EAST;
THENCE NORTHEASTERLY 60.21 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 63°53'17" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 170.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 74°20'09" WEST;
THENCE NORTHEASTERLY 89.85 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°16'57";
THENCE NORTH 45°56'48" EAST 203.87 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 740.00 FEET;

**EXHIBIT A
LEGAL DESCRIPTION**

THENCE NORTHEASTERLY 70.14 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°25'51" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 86.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 49°29'03" WEST;

THENCE NORTHEASTERLY 39.86 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°33'32";

THENCE NORTH 67°04'29" EAST 61.05 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 211.00 FEET;

THENCE NORTHEASTERLY 191.51 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 52°00'11";

THENCE NORTH 15°04'18" EAST 50.45 FEET;

THENCE NORTH 75°09'09" WEST 274.42 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 475.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 87°35'07" EAST;

THENCE SOUTHERLY 159.68 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 19°15'41" TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 211.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 73°09'12" EAST;

THENCE SOUTHWESTERLY 261.71 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 71°03'58" TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 615.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 02°05'14" EAST;

THENCE WESTERLY 258.77 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24°06'29";

THENCE NORTH 67°58'45" WEST 85.44 FEET;

THENCE NORTH 14°50'32" EAST 165.94 FEET;

THENCE NORTH 75°09'09" WEST 204.52 FEET;

THENCE SOUTH 15°18'26" WEST 640.52 FEET;

THENCE SOUTH 34°59'06" EAST 199.12 FEET;

THENCE SOUTH 82°37'16" EAST 65.32 FEET TO THE **POINT OF BEGINNING.**

CONTAINING 400,572 SQUARE FEET OR 9.196 ACRES MORE OR LESS.

AS SHOWN ON EXHIBIT B-PARCEL 3 ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

**EXHIBIT A
LEGAL DESCRIPTION**

PARCEL 4:

STRIP 1:

A STRIP OF LAND 30.00 FEET IN WIDTH, THE CENTERLINE OF SAID STRIP BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THAT CERTAIN COURSE IN THE CENTERLINE OF A 30.00 FOOT EASEMENT FOR SEWER AND ROAD PURPOSES PER SUPERIOR COURT CASE NO. 24769 SHOWN AS “NORTH 76°32’23” WEST, 1596.18 FEET” ON SAID RECORD OF SURVEY, DISTANT THEREON SOUTH 76°32’23” EAST 148.00 FEET FROM THE NORTHWESTERLY TERMINUS THEREOF;

THENCE ALONG SAID CENTERLINE SOUTH 76°32’23” EAST 20.16 FEET TO A POINT HEREINAFTER REFERRED TO AS **POINT “A”**;

THENCE CONTINUING ALONG SAID CENTERLINE THE FOLLOWING COURSES:

SOUTH 76°32’23” EAST 1428.02 FEET,

SOUTH 32°55’45” EAST 521.40 FEET,

SOUTH 27°15’15” EAST 595.00 FEET,

SOUTH 14°36’45” EAST 264.00 FEET,

SOUTH 5°33’45” WEST 217.00 FEET AND

SOUTH 12° 59’ 57” EAST 585.03 FEET TO THE NORTHWESTERLY LINE OF THE HEREINABOVE DESCRIBED PARCEL 2.

THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED TO TERMINATE SOUTHERLY ON SAID NORTHWESTERLY LINE OF PARCEL 2.

CONTAINING 108,918 SQUARE FEET OR 2.500 ACRES MORE OR LESS.

**EXHIBIT A
LEGAL DESCRIPTION**

STRIP 2:

A STRIP OF LAND 30.00 FEET IN WIDTH, THE CENTERLINE OF SAID STRIP BEING DESCRIBED AS FOLLOWS:

BEGINNING AT HEREINBEFORE MENTIONED **POINT "A"**;

THENCE SOUTH 03° 18' 27" EAST 303.61 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 515.00 FEET;

THENCE SOUTHERLY ALONG SAID CURVE 202.03 FEET THROUGH A CENTRAL ANGLE OF 22° 28' 37";

THENCE SOUTH 19° 10' 10" WEST 507.25 FEET TO THE NORTHEASTERLY LINE OF HEREINBEFORE DESCRIBED PARCEL 1.

THE SIDELINES OF SAID STRIP OF LAND SHALL BE LENGTHENED OR SHORTENED TO TERMINATE NORTHERLY IN THE SOUTHWESTERLY LINE OF SAID 30.00 FOOT EASEMENT FOR SEWER, AND SOUTHERLY IN THE NORTHEASTERLY LINE OF SAID PARCEL 1.

CONTAINING 29,917 SQUARE FEET OR 0.687 ACRES, MORE OR LESS.

AS SHOWN ON EXHIBIT B-PARCEL 4 ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PARCEL 5:

STRIP 1:

A STRIP OF LAND 20.00 FEET IN WIDTH, THE SOUTHWESTERLY LINE OF SAID STRIP LYING 15.00 FEET NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF PARCEL "A" AS DESCRIBED IN QUITCLAIM DEED TO THE CITY OF NEWPORT BEACH RECORDED APRIL 12, 1983 AS INSTRUMENT NO. 83-151675, OF OFFICIAL RECORDS OF ORANGE COUNTY, WITH THE CENTERLINE OF A 30.00 FOOT EASEMENT FOR SEWER AND ROAD

**EXHIBIT A
LEGAL DESCRIPTION**

PURPOSES PER SUPERIOR COURT CASE NO. 24763 AS SHOWN ON SAID RECORD OF SURVEY;

THENCE ALONG SAID CENTERLINE THE FOLLOWING COURSES:

NORTH 12°59'57" WEST 585.03 FEET,
NORTH 5°33'45" EAST 217.00 FEET,
NORTH 14°36'45" WEST 264.00 FEET,
NORTH 27°15'15" WEST 595.00 FEET AND
NORTH 32°55'45" WEST 521.40 FEET TO A POINT HEREINAFTER REFERRED TO AS **POINT "B"**.

THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED TO TERMINATE SOUTHERLY IN THE NORTHWESTERLY LINE AND THE NORTHEASTERLY PROLONGATION OF THE NORTHWESTERLY LINE OF SAID PARCEL "A" AND NORTHERLY IN A LINE HAVING A BEARING OF NORTH 57°04'15" EAST AND PASSING THROUGH SAID **POINT "B"**.

CONTAINING 43,823 SQUARE FEET OR 1.006 ACRES MORE OR LESS.

STRIP 2:

A STRIP OF LAND 30.00 FEET IN WIDTH, THE SOUTHWESTERLY LINE OF SAID STRIP LYING 5.00 FEET NORTHEASTERLY FROM THE FOLLOWING DESCRIBED LINE:

BEGINNING AT HEREINBEFORE MENTIONED **POINT "B"**;

THENCE NORTH 28°40'56" WEST 325.82 FEET TO A POINT HEREINAFTER REFERRED TO AS **POINT "C"**.

THE SIDE LINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED TO TERMINATE NORTHWESTERLY IN A LINE HAVING A BEARING OF SOUTH 82°37'16" EAST AND PASSING THROUGH SAID **POINT "C"**, AND SOUTHEASTERLY IN A LINE HAVING A BEARING OF NORTH 57°04'15" EAST AND

**EXHIBIT A
LEGAL DESCRIPTION**

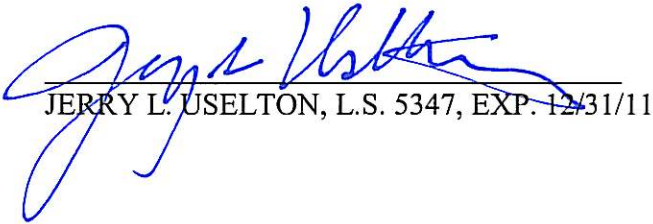
PASSING THROUGH SAID **POINT "B"**.

EXCEPT THEREFROM THAT PORTION LYING WITHIN PARCEL 4, STRIP 1 AS DESCRIBED ABOVE.

CONTAINING 9,190 SQUARE FEET OR 0.211 ACRES MORE OR LESS.

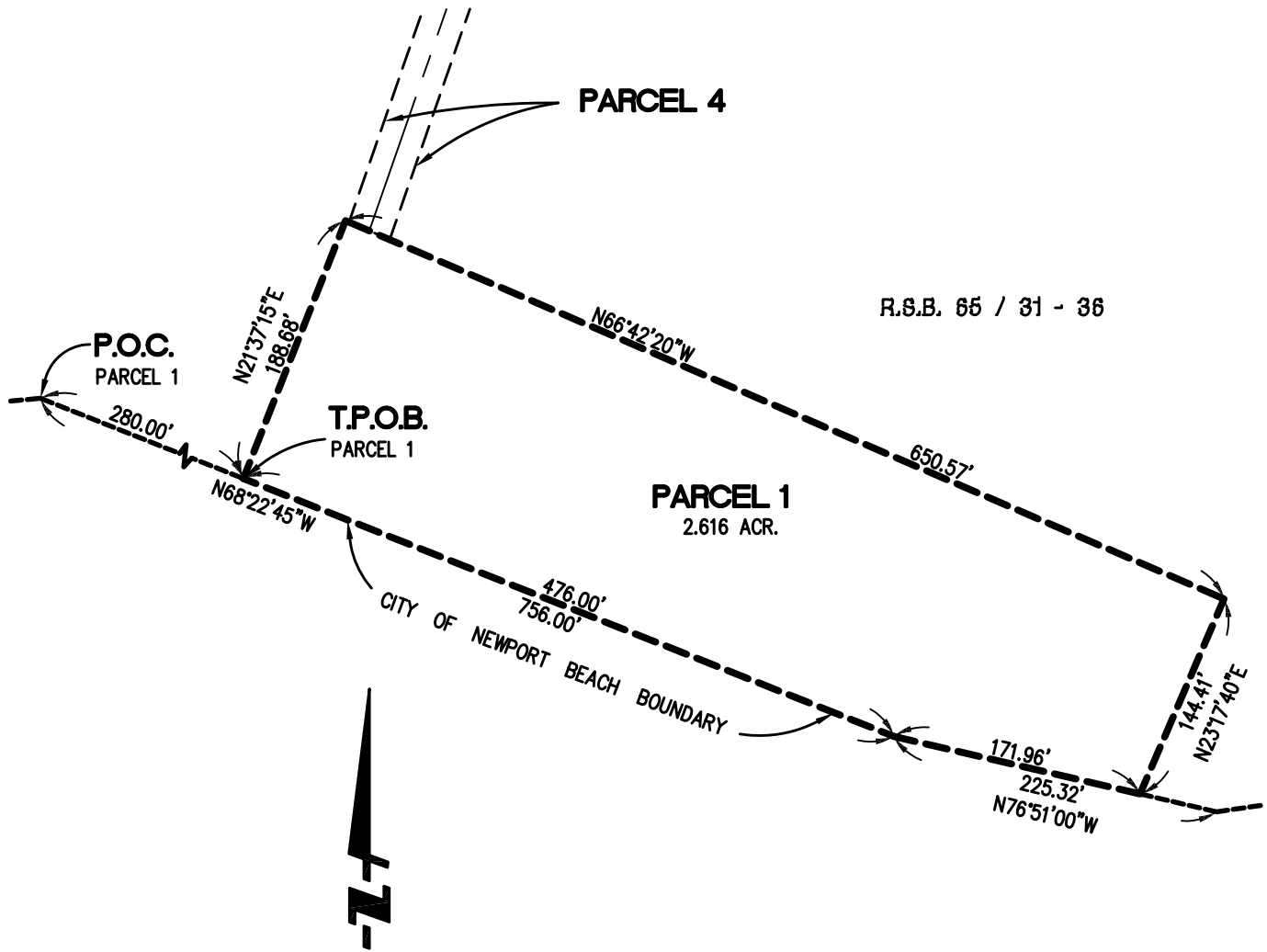
AS SHOWN ON EXHIBIT B-PARCEL 5 ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

DATED THIS 6th DAY OF July, 2010.



JERRY L. USELTON, L.S. 5347, EXP. 12/31/11





SCALE: 1" = 120'



DENOTES PARCEL 1 AREA



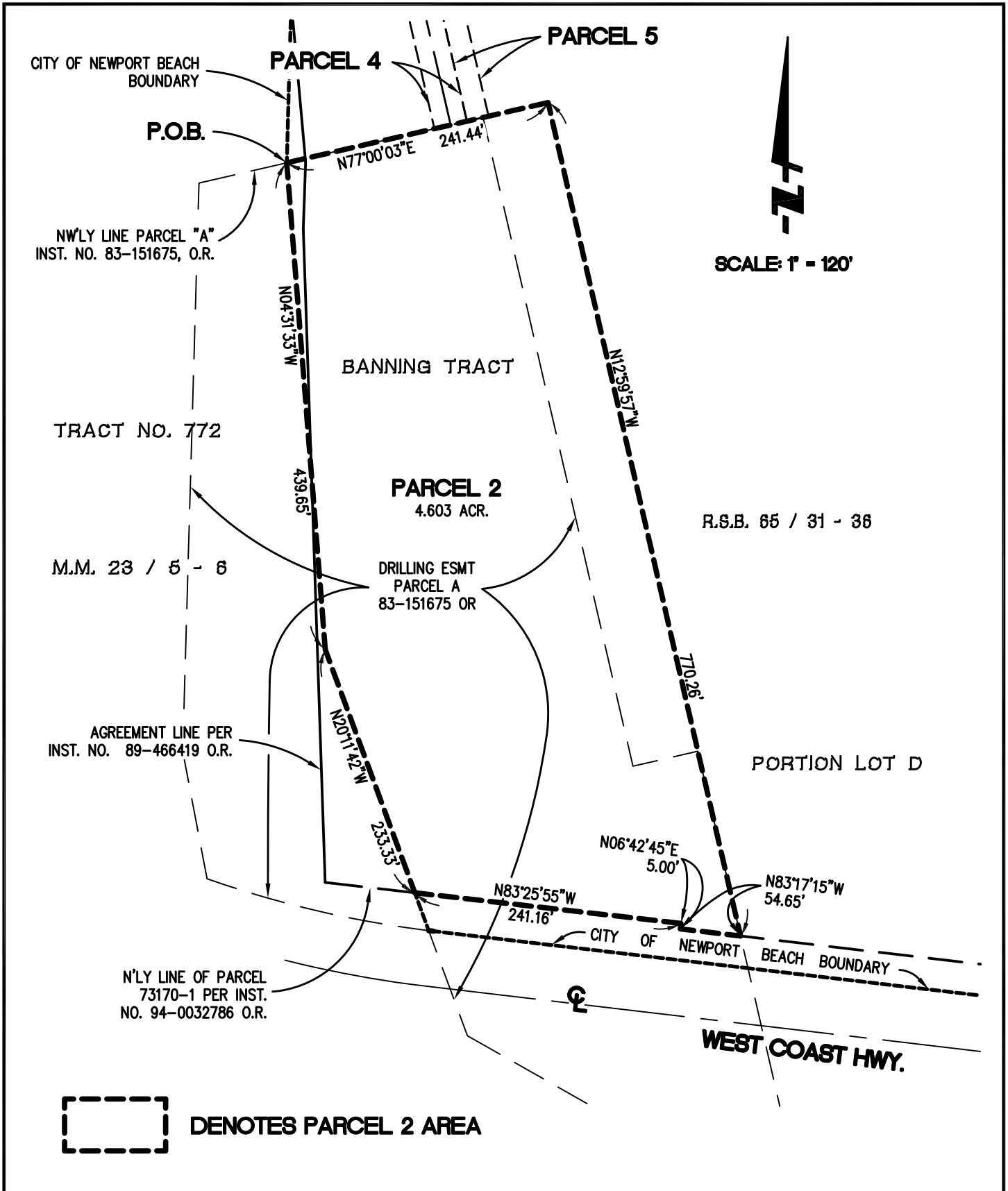
FUSCOE
ENGINEERING

16795 Von Karman, Suite 100, Irvine, California 92606
tel 949.474.1960 • fax 949.474.5315 • www.fuscoe.com

EXHIBIT B-PARCEL 1
OIL WELL OPERATIONAL AREA
CITY OF NEWPORT BEACH &
UNINCORPORATED TERRITORY OF ORANGE COUNTY,
CALIFORNIA

DATE: 07/01/10
SCALE: 1"=120'
JN: 821.0102

1 OF 5



SCALE: 1" = 120'



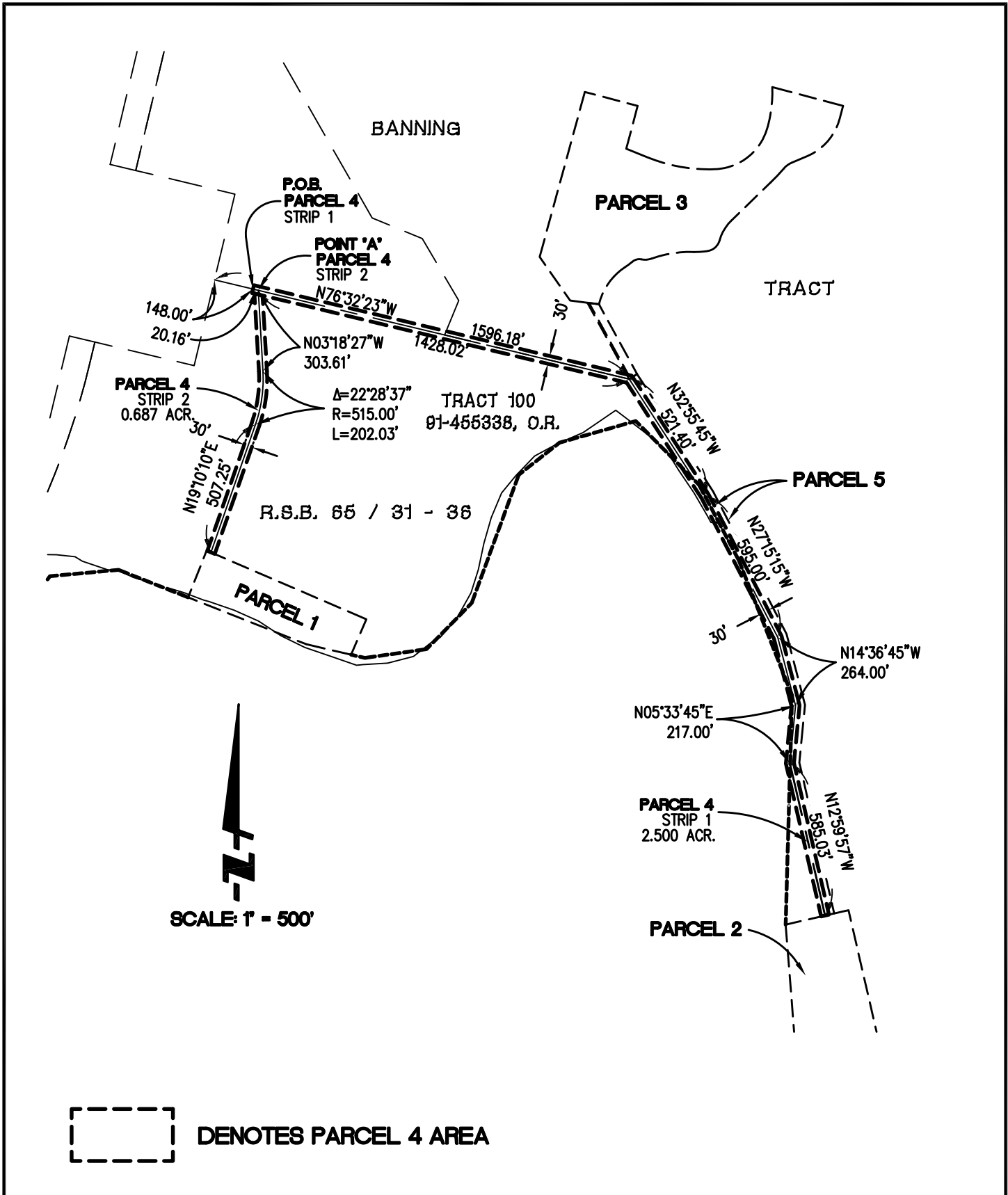
DENOTES PARCEL 2 AREA



FUSCOE
ENGINEERING
16795 Von Karman, Suite 100, Irvine, California 92606
tel 949.474.1960 • fax 949.474.5315 • www.fuscoe.com

EXHIBIT B-PARCEL 2
OIL WELL OPERATIONAL AREA
CITY OF NEWPORT BEACH &
UNINCORPORATED TERRITORY OF ORANGE COUNTY,
CALIFORNIA

DATE: 07/01/10
SCALE: 1"=120'
JN: 821.0102
2 OF 5



FUSCOE

ENGINEERING

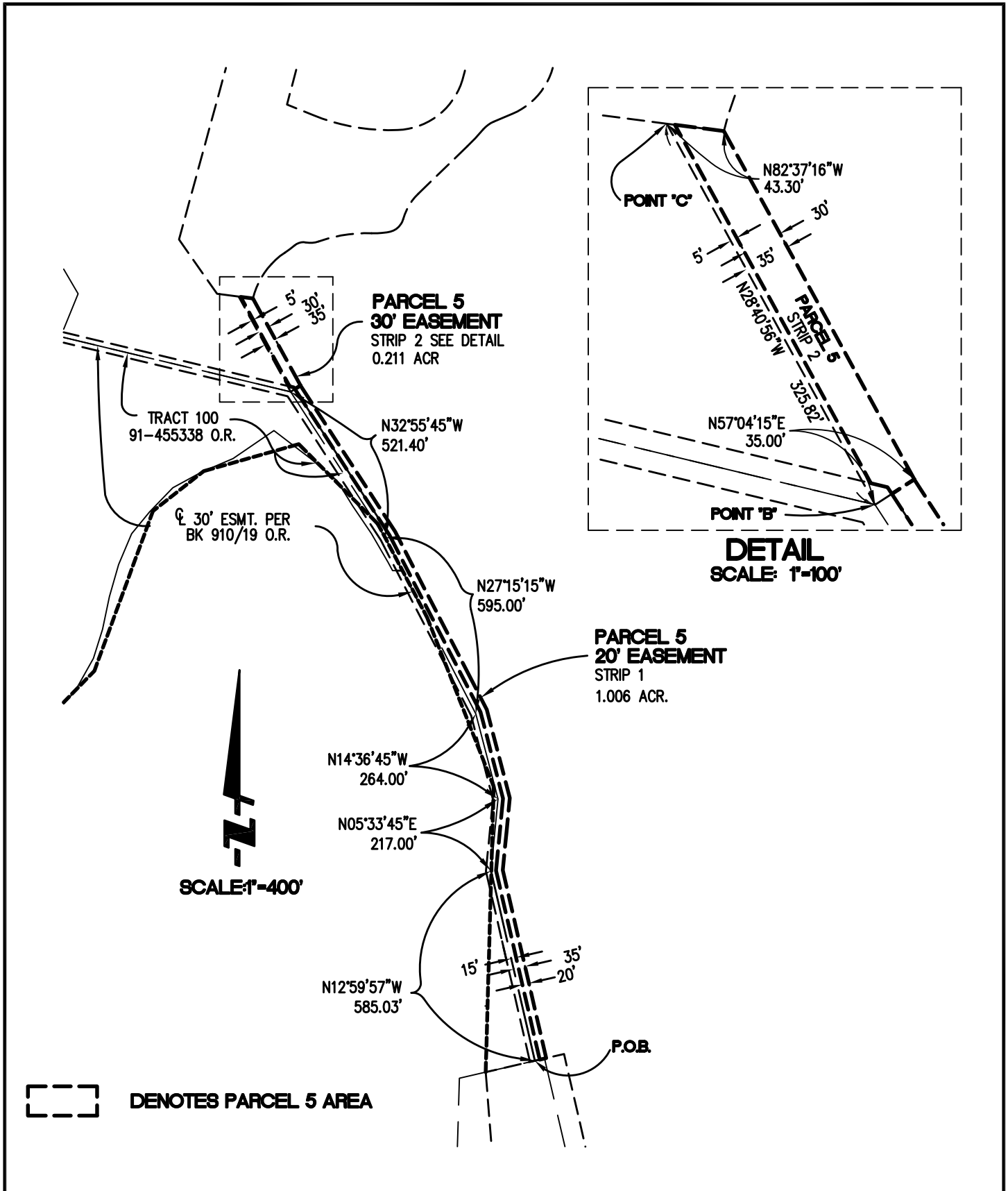
16795 Von Karman, Suite 100, Irvine, California 92606
 tel 949.474.1960 • fax 949.474.5315 • www.fuscoe.com

EXHIBIT B-PARCEL 4
OIL WELL OPERATIONAL AREA
CITY OF NEWPORT BEACH &

UNINCORPORATED TERRITORY OF ORANGE COUNTY,
CALIFORNIA

DATE: 07/01/10
 SCALE: 1"=120'
 JN: 821.0102

4 OF 5



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EXHIBIT B-PARCEL 5
OIL WELL OPERATIONAL AREA
CITY OF NEWPORT BEACH &
UNINCORPORATED TERRITORY OF ORANGE,
CALIFORNIA

DATE: 07/01/10
SCALE: 1"=400'
JN: 821.0102
5 OF 5

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2010-76 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 6th day of July, 2010, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Selich, Rosansky, Henn, Webb, Gardner, Mayor Curry

Noes: None

Absent: Daigle

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 7th day of July, 2010.

Leilani I. Brown

City Clerk
Newport Beach, California

(Seal)

