



THE CITY OF SAN DIEGO

*Covers mule trail +
Parking lot at Bander
Canyon + Ysabel Cr. Rd.*

January 31, 2001

Files: Property File - C701
Permit File - San Dieguito River Park JPA - Mule
Hill Trail
Job: 222942

San Dieguito River Park JPA
18372 Sycamore Creek Road
Escondido, CA 92025

Attention: Susan Carter

Reference: Right of Entry Permit - Mule Hill Trail, San Pasqual Valley

The City of San Diego ("City") hereby grants permission to San Dieguito River Park JPA ("Permittee") to enter upon the above-referenced City-owned property ("Permit Area"), as delineated on the attached Exhibit "A," upon the following terms and conditions:

1. Permittee's use of the Permit Area shall be limited to design, construction and maintenance of a public multi-use trail through the San Pasqual Valley ("Mule Hill Trail").
2. Consideration to City for granting this Permit shall be the design, construction and ongoing maintenance of the Mule Hill Trail.
3. This Permit shall be in effect upon execution hereof by the City Manager and shall expire no later than the third anniversary of the effective date.
4. Permittee certifies that a policy of public liability and property damage insurance, in which "The City of San Diego" is named as an additional insured, has been secured in an amount of not less than \$5 million combined single limit liability with an occurrence claims form and that said policy shall be kept in force for the duration of this Permit. A certificate of said insurance shall be filed with the City Real Estate Assets Department upon execution of this Permit.
5. Permittee shall defend, indemnify, protect, and hold harmless the City, its agents, officers, and employees, from and against all claims, demands, causes of action, liability or loss asserted or established for damages or injuries to any person or property arising out of the design, construction, maintenance, operation or any other activity alleged to relate to the Mule Hill Trail. Claims, demands, causes of action,



Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199
Tel (619) 236-6020 Fax (619) 236-6706

liability or loss that are alleged to arise from, are connected with, directly or indirectly, or are caused or claimed to be caused by the acts or omission of the Permittee, its agents, officers and employees with respect to the design, construction, maintenance, operation or any activity alleged to relate to the Mule Hill Trail are covered. Also covered are the claims, demands, causes of action, liability or loss arising from, connected with, directly or indirectly, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees which may be in combination with the negligence of Permittee, its employees, agents or officers, or any third party. Permittee's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the established sole negligence or sole willful misconduct of the City, its agents, officers or employees.

Permittee further agrees that the indemnification referred to above and the duty to defend City require the Permittee to pay any costs City incurs that are associated with enforcing the indemnification provision, and defending any claims arising from the design, construction, maintenance, operation or any other activity alleged to relate to the Mule Hill Trail. If City chooses, at its own election, to conduct its own defense, participate in its own defense or obtain independent counsel in defense on any claim related to work provided under this indemnification, Permittee agrees to pay the reasonable value of attorneys' fees and all of City's reasonable costs.

6. Permittee agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in Permittee's use of the Permit Area, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
7. All risks in connection with Permittee's use of the Permit Area and any damages to the improvements thereon, thereunder, or in the vicinity thereof shall be borne in full by Permittee.
8. Permittee shall not use the Permit Area in any manner which, in the opinion of the City Manager, creates a nuisance, impacts the water quality of the City's surface or groundwater resources or disturbs the quiet enjoyment of persons in the surrounding area.
9. This Permit is revocable at any time by the City of San Diego. It is mutually agreed that the City of San Diego shall not be obligated for any loss, financial or otherwise, which may be incurred by Permittee as a result of termination of this Permit, and, further, that Permittee expressly waives any claim for expense or loss which Permittee might incur as a result of termination of this Permit.

10. Permittee recognizes and understands that this Permit may create a possessory interest subject to property taxation and that Permittee may be subject to the payment of property taxes levied on such interest. Permittee further agrees that such tax payment shall not reduce any fee paid the City of San Diego hereunder and that such tax shall be paid by Permittee before becoming delinquent.
11. Permittee shall at its sole cost and expense comply with all the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the Permit Area.
12. Permittee shall at its sole cost remove all materials and repair and/or restore the Permit Area to its original condition, including any hazardous or toxic waste remediation, to the satisfaction of the City Manager.
13. Permittee shall not assign any rights granted by this Permit nor any interest therein without the prior written approval of the City Manager. Approval of any such proposed assignment may be withheld in the sole and absolute discretion of the City Manager. Any assignment by operation of law shall automatically terminate this Permit.
14. No signs shall be displayed on the Permit Area without the prior written consent of the City Manager.
15. Construction of Mule Hill Trail as hereinabove provided, including screening and landscaping, shall be accomplished to the City Manager's satisfaction at Permittee's sole cost.
16. Maintenance and operation of the Permit Area shall be the sole responsibility of Permittee during the entire term of this Permit as delineated on the attached Exhibit "B."
17. Permittee shall be responsible for the trail closure of the Permit Area as delineated on the attached Exhibit "C."
18. Grading and compaction operations shall be done in such a manner that the existing surface drainage pattern will not be disrupted, and the final grades will not interfere with the existing flow pattern.
19. Due to the location of the Permit Area in a floodplain, grading, filling, dumping, new planting or fencing are prohibited unless first approved in writing by the City Manager. Permittee shall not change the surface grade or construct any barriers on the Permit Area. Any such violations will be corrected by Permittee at its sole

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San Dieguito River Park JPA

January 31, 2001

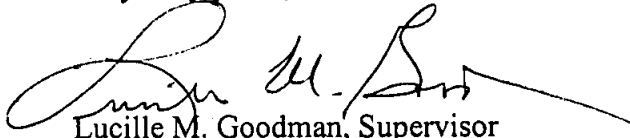
expense to the satisfaction of the City Manger and are grounds, at the City's option, for immediate termination of this Permit.

20. The City of San Diego as Responsible Agency under CEQA has reviewed and considered the Mitigated Negative Declaration dated June 8, 2000, prepared by the San Dieguito River Park Joint Powers Authority, and has adopted the Mitigation, Monitoring, and Reporting Program.

Please acknowledge your agreement to the foregoing terms and conditions on the enclosed copy of this Permit and return it to the City Real Estate Assets Department, together with your insurance certificate.

If you should require additional information or have any questions, please call Jim Lovewell, Property Agent, at (619) 236-6792.

Very truly yours,



Lucille M. Goodman, Supervisor
Real Estate Assets Department

Date: 2-5-01

LMG/JBL/jmj

Attachments

cc: County Assessor

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San Dieguito River Park JPA
January 31, 2001

THE ABOVE IS ACKNOWLEDGED AND ACCEPTED THIS 5th DAY OF
February, 2001.

SAN DIEGUITO RIVER PARK JPA

By Dick Roberts

APPROVED AS TO FORM AND LEGALITY

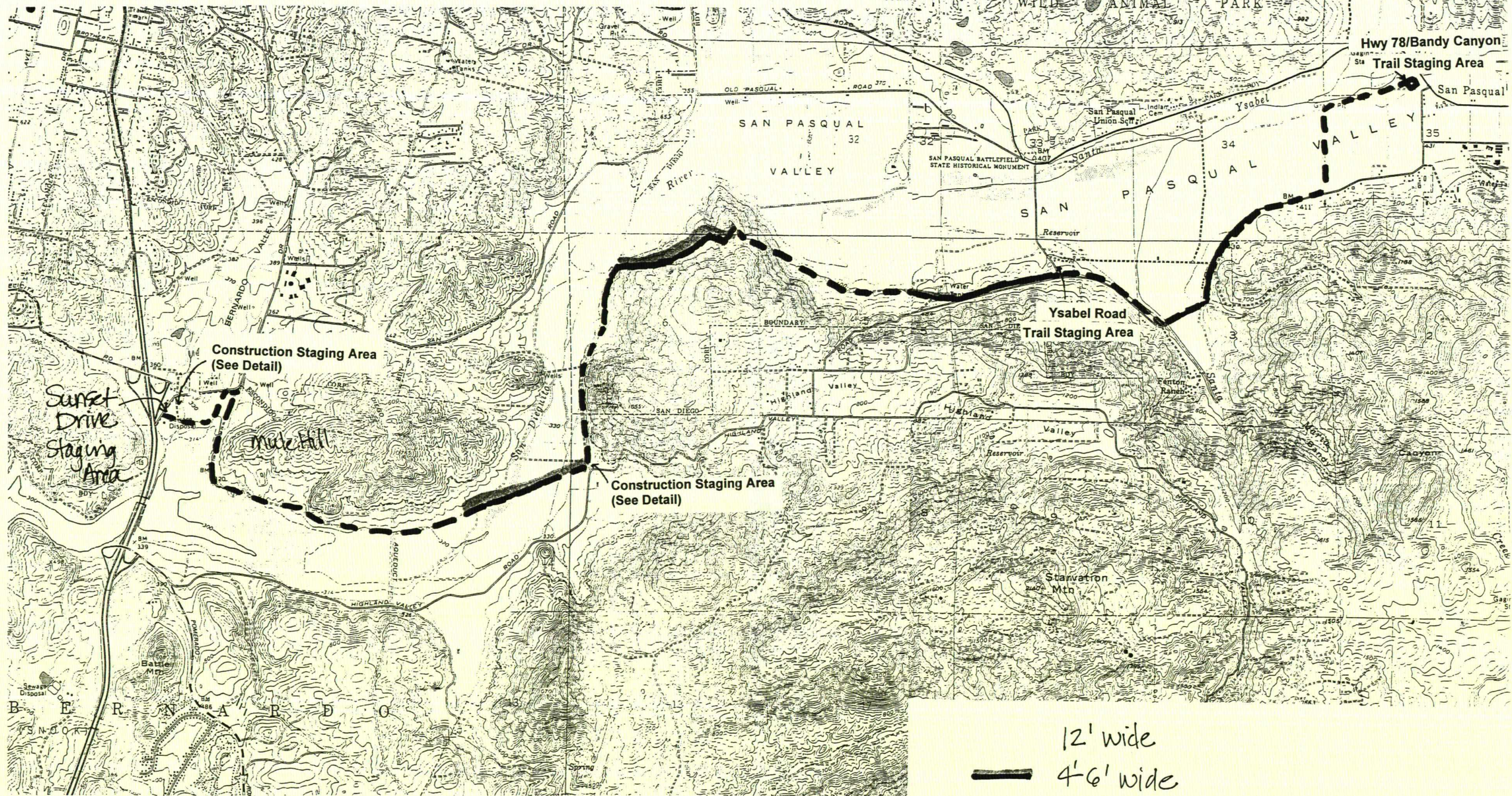
CASEY GWINN, City Attorney

By Jori W. Galar
Deputy City Attorney

ENVIRONMENTAL ANALYSIS SECTION
ENVIRONMENTAL CLEARANCE:

By Lawrence P. Mansueti

Mule Hill/San Pasqual Valley Trail



Page 1 of 3

EXHIBIT A

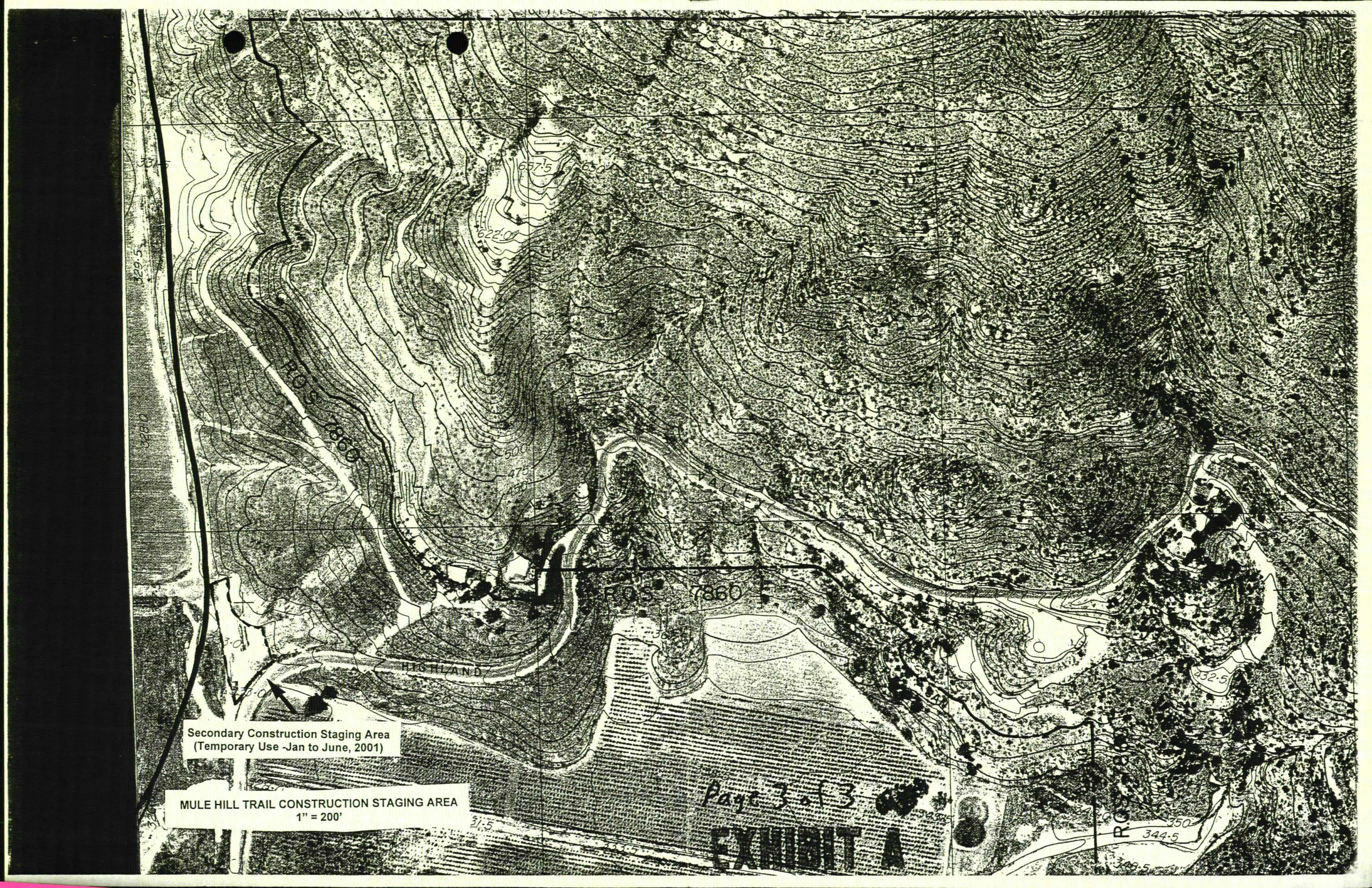
12/21/00.

12' wide

4'6' wide

8' wide

In Bandy Canyon Rd. Right-of-Way

A detailed topographic map showing the Mule Hill Trail Construction Staging Area. The map features contour lines indicating elevation, with labels such as 329.0, 329.5, 328.0, 327.5, 326.0, 325.0, 324.0, 323.0, 322.0, 321.0, 320.0, 319.0, 318.0, 317.0, 316.0, 315.0, 314.0, 313.0, 312.0, 311.0, 310.0, 309.0, 308.0, 307.0, 306.0, 305.0, 304.0, 303.0, 302.0, 301.0, 300.0, 299.0, 298.0, 297.0, 296.0, 295.0, 294.0, 293.0, 292.0, 291.0, 290.0, 289.0, 288.0, 287.0, 286.0, 285.0, 284.0, 283.0, 282.0, 281.0, 280.0, 279.0, 278.0, 277.0, 276.0, 275.0, 274.0, 273.0, 272.0, 271.0, 270.0, 269.0, 268.0, 267.0, 266.0, 265.0, 264.0, 263.0, 262.0, 261.0, 260.0, 259.0, 258.0, 257.0, 256.0, 255.0, 254.0, 253.0, 252.0, 251.0, 250.0, 249.0, 248.0, 247.0, 246.0, 245.0, 244.0, 243.0, 242.0, 241.0, 240.0, 239.0, 238.0, 237.0, 236.0, 235.0, 234.0, 233.0, 232.0, 231.0, 230.0, 229.0, 228.0, 227.0, 226.0, 225.0, 224.0, 223.0, 222.0, 221.0, 220.0, 219.0, 218.0, 217.0, 216.0, 215.0, 214.0, 213.0, 212.0, 211.0, 210.0, 209.0, 208.0, 207.0, 206.0, 205.0, 204.0, 203.0, 202.0, 201.0, 200.0, 199.0, 198.0, 197.0, 196.0, 195.0, 194.0, 193.0, 192.0, 191.0, 190.0, 189.0, 188.0, 187.0, 186.0, 185.0, 184.0, 183.0, 182.0, 181.0, 180.0, 179.0, 178.0, 177.0, 176.0, 175.0, 174.0, 173.0, 172.0, 171.0, 170.0, 169.0, 168.0, 167.0, 166.0, 165.0, 164.0, 163.0, 162.0, 161.0, 160.0, 159.0, 158.0, 157.0, 156.0, 155.0, 154.0, 153.0, 152.0, 151.0, 150.0, 149.0, 148.0, 147.0, 146.0, 145.0, 144.0, 143.0, 142.0, 141.0, 140.0, 139.0, 138.0, 137.0, 136.0, 135.0, 134.0, 133.0, 132.0, 131.0, 130.0, 129.0, 128.0, 127.0, 126.0, 125.0, 124.0, 123.0, 122.0, 121.0, 120.0, 119.0, 118.0, 117.0, 116.0, 115.0, 114.0, 113.0, 112.0, 111.0, 110.0, 109.0, 108.0, 107.0, 106.0, 105.0, 104.0, 103.0, 102.0, 101.0, 100.0, 99.0, 98.0, 97.0, 96.0, 95.0, 94.0, 93.0, 92.0, 91.0, 90.0, 89.0, 88.0, 87.0, 86.0, 85.0, 84.0, 83.0, 82.0, 81.0, 80.0, 79.0, 78.0, 77.0, 76.0, 75.0, 74.0, 73.0, 72.0, 71.0, 70.0, 69.0, 68.0, 67.0, 66.0, 65.0, 64.0, 63.0, 62.0, 61.0, 60.0, 59.0, 58.0, 57.0, 56.0, 55.0, 54.0, 53.0, 52.0, 51.0, 50.0, 49.0, 48.0, 47.0, 46.0, 45.0, 44.0, 43.0, 42.0, 41.0, 40.0, 39.0, 38.0, 37.0, 36.0, 35.0, 34.0, 33.0, 32.0, 31.0, 30.0, 29.0, 28.0, 27.0, 26.0, 25.0, 24.0, 23.0, 22.0, 21.0, 20.0, 19.0, 18.0, 17.0, 16.0, 15.0, 14.0, 13.0, 12.0, 11.0, 10.0, 9.0, 8.0, 7.0, 6.0, 5.0, 4.0, 3.0, 2.0, 1.0, 0.0. The map also shows a road labeled 'HIGHLAND' and a 'Secondary Construction Staging Area' with an arrow pointing to it. The map is titled 'MULE HILL TRAIL CONSTRUCTION STAGING AREA' and includes a scale of '1" = 200'.'

Secondary Construction Staging Area
(Temporary Use -Jan to June, 2001)

MULE HILL TRAIL CONSTRUCTION STAGING AREA
1" = 200'

Page 3 of 3

EXHIBIT A

Mule Hill/San Pasqual Valley Trail Operations

Hours of Operation.

Hours of Operation are Daylight to Dusk. The Sunset Drive and Hwy 78/Bandy Canyon Road trailheads will be closed from Dusk to Daylight (open at 6:00 a.m. year-round, close 7:00 p.m. 11/1 through 3/31 and 8:30 p.m. 4/1 through 10/31).

In addition, trails will be closed when the JPA is notified of pesticide spraying in accordance with the approved Protocol for Trail Closure. At that time JPA ranger staff or designees will physically close the gates to the affected portions of the trail and will place signs regarding the closure at the trailheads. If a trail must be closed due to flooding, the same procedure will be put in place.

Maintenance and Housekeeping Standards.

- A unisex portable toilet will be provided at both the Sunset Drive staging area and the Hwy 78/Bandy Canyon Road staging area. If requested by the City Manager at any time in the future, another one would be located at the old weigh scales on Highland Valley Road.
- Drinking water is currently available at the Sunset Drive staging area. It is not proposed elsewhere. All trailhead kiosks and printed materials recommend that trail users bring drinking water (for themselves and their pets). It is customary practice for trail users to bring their own water when hiking in rural areas. However, the Volunteer Patrol and Park Rangers also carry water for emergency situations.
- Trash cans will be provided at the Sunset Drive staging area, the Hwy 78/Bandy Canyon Road staging area, and the Ysabel Creek Road parking area). The trash will be checked, and if necessary emptied, at least twice weekly.
- Litter along the trail will be cleaned at least once a week.

Park Ranger Responsibilities.

San Dieguito River Park Ranger Staff are in charge of trail maintenance and enforcement of rules and regulations. This involves supervision of our Volunteer Patrol program and trail maintenance crews. The Volunteer Patrol are trained volunteers who check in at the Park office and then patrol the trails in teams of two, either on foot, on horseback, or on bicycle. The Patrols are scheduled for Fridays, Saturdays, Sundays and Mondays. They carry two-way radios with them so that they can reach the ranger staff in case of emergency. Ranger staff is in the Park daily working on improvement projects such as trail and habitat restoration, trail management (adding/removing signage, enforcement, education, addressing urban interface issues, encampments, etc.). The trails are maintained by the Park Rangers with assistance from volunteers. We have a regular weekly trail maintenance crew. In addition, we have well-attended monthly trail maintenance work parties for any interested volunteers. Paid work crews will also be used as needed.

Contact Information:

- If there is an emergency or accident on the trail, call 911 for immediate assistance. River Park staff should also be informed if possible so that we can investigate the cause of the accident to determine if a trail should be redesigned.
- Trail/facility repairs and non-emergency reports should be brought to the attention of: Ranger staff at the San Dieguito River Park Office, (858) 674-2270.
- Security issues should be reported to River Park Rangers at (858) 674-2270. If there is property damage or loss they should also be reported to the police.

Sign Program

The River Park proposes to install information kiosks at each trailhead. Regulatory as well as trail and park information, including trail maps, will be provided. Regulatory signs will also be installed at other access points. Signs will indicate that off-trail activities are prohibited. At the entry to the Mule Hill Trail signage will clearly specify that the next 9 miles of trail will pass through ecologically sensitive land and adjacent to agricultural areas. These signs will warn of the need to stay on the designated trail. They will also warn of potential hazards from pesticide use and farm equipment, and that the trail may be closed when pesticides are applied.

The kiosks will be traditional park kiosks found in other park locations. One is already located at the Sunset Drive Trailhead. Interpretive signage will also be installed. In the Mule Hill area there will be one or two interpretive stations, constructed of concrete masonry with stone facing. Figure 7 in the Mitigated Negative Declaration illustrates the proposed interpretive stations. Stand-alone, small interpretive signs will also be installed at appropriate locations along the trail.

Trail Construction Specifications. The first 1.24 miles of the trail will consist of an 8-foot-wide hard-surface path, with a 4-foot-wide trail adjacent to it for hiking/equestrian use. The hard-surface path will be used by bicyclists and will also meet the standards of the Americans with Disabilities Act (ADA). The remaining 8.2 miles of trail will be a dirt or decomposed granite (d.g.) surface, from six to eight feet wide, depending on the location, as described in the Mitigated Negative Declaration.

PROTOCOL FOR TRAIL CLOSURE DUE TO APPLICATION OF AGRICULTURAL CHEMICALS

The San Dieguito River Park Joint Powers Authority (JPA) will be responsible for closing the affected portions of the trail under the following conditions:

During application of a restricted material in accordance with the permit conditions when required by the Agricultural Commissioner, or other permitting authority;

During application of agricultural sulfur of any form;

During aerial spraying of any substance; or

At the discretion of the Lessee.

The Lessee will be responsible for notifying the JPA when a trail closure is required. Whenever feasible, the JPA shall be given at least 24 hours notice of a closure requirement. Notification shall be by telephone and fax or hand-delivered written notice to the JPA office. JPA shall fax written confirmation of such notice. Closure for aerial spraying shall be until the applied substance dries, unless otherwise required by a permit condition or requested by the land Lessee. A decrease in application area shall not be required to avoid closure of the trail.

Any party to this protocol may request reconsideration of this protocol under changed circumstances; however, this protocol shall remain in full force and effect unless all parties agree in writing otherwise. Within six months of initial trail operation the parties will meet again to discuss the effectiveness of this protocol (estimated to be approximately January 2002).

Notification Information:

San Dieguito River Park Joint Powers Authority
18372 Sycamore Creek Road
Escondido, CA 92025
Phone: (858) 674-2270
Fax: (858) 674-2280

EXHIBIT C

RESOLUTION NO. R01-1**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK
JOINT POWERS AUTHORITY
ADOPTING DESIGN INDEMNITY RE MULE HILL TRAIL**

WHEREAS, the San Dieguito River Valley Regional Open Space Park Joint Powers Authority ("JPA") is applying for a Site Development Permit ("Permit") from the City of San Diego for the construction of a 9.4 mile trail (the Trail) in the San Pasqual-Lake Hodges Community Planning Area which is a portion of the Trail; and

WHEREAS, conditions 21 through 23 of the City of San Diego ("City") Permit, impose certain design criteria for the design and construction of the Trail; and

WHEREAS, the JPA desires to design and construct portions of the Trail contrary to the normally applicable City requirements for setback and separation from the roadway, and such deviations from the normal design standards have been approved by the City conditioned on the JPA providing the City with design immunity; and

WHEREAS, the City and the affected leaseholders have requested indemnity for any expenses associated with a lawsuit brought against them by any person as a result of the design and construction of the Trail; and

WHEREAS, on June 16, 2000, the Board of Directors of the JPA adopted Resolution No. R00-7 agreeing to provide indemnification to the City and its agricultural leaseholders adjacent to the Trail as set forth in said Resolution, for any expenses associated with a lawsuit brought against them by a Trail user that may occur despite the broad array of statutory immunities; and

WHEREAS, the JPA desires to further indemnify the City and its affected leaseholders for any expenses associated with a lawsuit brought against them by any person as a result of the design and construction of the Trail as set forth in the Resolution.

THEREFORE BE IT RESOLVED THAT, in exchange for approval of the alternative design and construction of the Trail, the JPA shall provide the following additional indemnity and insurance coverage:

1.1 The JPA shall defend, indemnify, protect, and hold harmless the City, its agents, officers and employees, from and against all claims, demands, causes of action, liability or loss asserted or established for damages or injuries to any person or property arising out of the design, construction and maintenance of the Trail. Claims, demands, causes of action, liability or loss that arise from, are connected with, or are caused or claimed to be caused by the acts or omissions of the JPA, the JPA's agents, officers and employees with respect to the design, construction and maintenance of the Trail are covered. Also covered are the claims, demands, causes of action, liability or loss arising from, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees which may be in

combination with the negligence of the JPA, its employees, agents or officers, or any third party. The JPA's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the established sole negligence or sole willful misconduct of the City, its agents, officers or employees.

1.2 The JPA further agrees that the indemnification agreement referred to in Section 1.1 and the duty to defend the City require the JPA to pay any costs the City incurs that are associated with enforcing the indemnification provision, and defending any claims arising from the design, construction and maintenance of the Trail. If the City chooses, as its own election, to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any claim related to work provided under this Agreement, the JPA agrees to pay the reasonable value of attorneys' fees and all of the City's reasonable costs to the extent covered by the JPA's insurance.

2. The JPA shall maintain a policy of public liability and property damage insurance, in which the City is named as an additional insured and secured in an amount of not less than \$5 million.

3. All provisions of the indemnification agreement adopted by Resolution No. R00-7 remain in effect, except for #4, provided that the claimant/employee, agent, invitee or relative of the indemnified party was injured or damaged as a result of the alternative design, construction, or maintenance.

PASSED AND ADOPTED this 19th day of January, 2001, by the following vote:

8 AYES; 0 NOES; 1 ABSENT; 0 ABSTAINED



CHAIR, SAN DIEGUITO RIVER VALLEY
REGIONAL OPEN SPACE PARK JPA
BOARD OF DIRECTORS

ATTEST:

CLERK, SAN DIEGUITO RIVER VALLEY
REGIONAL OPEN SPACE PARK JPA
BOARD OF DIRECTORS

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