



MEMORANDUM

TO: HONORABLE MAYOR & CITY COUNCIL MEMBERS
FROM: JOEL ROJAS, AICP, DIRECTOR OF PLANNING,
BUILDING AND CODE ENFORCEMENT
DATE: AUGUST 18, 2009
SUBJECT: TERRANEA RESORT AND SPA – ZON2009-00198
(REVISION 'L' TO CUP 215, ET. AL.)
REVIEWED: CAROLYN LEHR, CITY MANAGER

Prepared By: Carol Lynch, City Attorney; Dennis McLean, Director of Finance and Information Technology; and Ara Michael Mihranian, Principal Planner

RECOMMENDATION

Adopt Resolution No. 2009-__, approving Revision 'L' to Conditional Use Permit No. 215, et. al. by amending the Council-adopted Conditions of Approval to allow:

1. The extension of the condition compliance date for specific conditions from August 1, 2009 to November 1, 2009, or prior to issuance of the Final Certificate of Occupancy for the main hotel building, which ever occurs first;
2. The addition of Condition 13A requiring the applicant to reimburse the City for all of the costs the City incurred in connection with developing the TOT rebate ordinance and program; the due diligence that was performed in connection with evaluating the applicant's ability to repay the TOT to the City, and the conditions that should be imposed on the applicant if the applicant were to enroll in the TOT rebate program; and,
3. The expanded operation of the spa and massage facilities for "outcall massages."

BACKGROUND

At its August 4, 2009 meeting, the City Council opened the public hearing on the subject application to consider the applicant's request. At this meeting, it was reported to the Council that the applicant had not funded the trust deposit established by City Staff,

pursuant to the City Council's direction at its May 26th meeting, for costs incurred by the City in connection with the TOT rebate ordinance and program and the performance of due diligence that was requested by the City Council. To date, the amount still has not been received. The total cost due to the City as reported at the last City Council meeting was \$135,328.97 and is subject to an additional request in late August totaling about \$20,000. Accordingly, the total amount owed the City exceeds \$150,000. In the event the City is not reimbursed for such professional fees, an after-the-fact FY08-09 budget adjustment may be required. General Fund reserves would be reduced by the amount not reimbursed to the City. At the request of the applicant, Mr. Lowe, who could not attend the August 4th meeting, the Council continued the public hearing to its August 18th meeting. As such, the Council took no action on the applicant's request to amend the project conditions of approval. However, the Council extended the Temporary Certificate of Occupancy for the main hotel building through August 18, 2009.

DISCUSSION

The applicant's request to amend the Council-adopted Conditions of Approval with regard to extending the Condition compliance deadline date from August 1, 2009 to November 1, 2009, and to allow the expanded operation of spa services for on-site "outcall massages" and "chair massages" has not changed since the August 4th meeting. Attached for reference purposes is the August 4th City Council Staff Report that analyzes the applicant's requests. The attached exhibits (Resolution, Addendum, and Conditions of Approval) have been updated to reflect the August 18, 2009 meeting date.

In regards to the matter relating to the outstanding trust deposit balance, as reported to the City Council in a memo dated August 4, 2009, the City incurred substantial costs in connection with the preparation of the due diligence requested by the City Council and the TOT rebate program, which the applicant requested that the City adopt in order to assist the Terranea Resort with funding its initial start up costs and operating deficit. The due diligence that was performed by City Staff, the City Attorney's Office and consultants that were retained by the City Attorney's Office in connection with the development of the structure of the TOT Rebate Program has resulted in a total cost of \$135,328.97 through July 21, 2008, the date of last trust deposit request and is subject to an additional request in late August totaling about \$20,000. Accordingly, the total amount owed the City exceeds \$150,000. In the event the City is not reimbursed for such professional fees, an after-the-fact FY08-09 budget adjustment may be required. General Fund reserves would be reduced by the amount not reimbursed to the City.

In accordance with existing Condition 13, the applicant is required to reimburse the City for all of the costs that the City incurred in connection with the establishment of the TOT rebate ordinance and program and the performance of due diligence analysis. Additionally, the minutes of the City Council meeting conducted on May 26, 2009, reflect the following action taken by the City Council:

"3) Approve the use of a trust deposit funded by Long Point Development, LLC, or an affiliate of it, to pay for the City's cost of professional services, including due diligence, document preparation, and other work product necessitated by the request for financial assistance."

Although officers of Terranea previously advised the City that it would pay the first installment of the reimbursement requested in the amount of \$120,000 on July 31st, the applicant now is contending that the applicant should only be responsible for reimbursing the City for these costs, if the applicant qualifies for and enrolls in the TOT rebate program. To eliminate any ambiguity about this issue or the City Council's intent, Condition No. 13 A is hereby added to these conditions to read as follows:

13 A. The applicant shall be required to pay 100% of the estimated amount of the cost of the services that were provided by the City Attorney's Office and by outside consultants that were retained by the City Attorney's Office to render services on behalf of the City specifically in connection with the creation of the TOT Rebate Program and Ordinance No. 490 and the due diligence analysis pertaining to Terranea itself and the ability to repay the TOT to the City, all of which were performed in response to the applicant's request for the establishment of the TOT Rebate Program and the Ordinance. The funds that are received from the applicant for this purpose shall be held in, and disbursed from, a City trust account that is established for this purpose. The balance owed the City pursuant to trust deposit requests dated June 19, 2009 and July 21, 2009 in the amount of \$135,328.97 shall be paid to the City on or before September 14, 2009. The applicant shall replenish the trust deposit within thirty days of receipt of notice from the City that additional funds are needed to pay for said services. The City shall refund to the applicant any excess amount that is remaining in the trust account after all such disbursements are made.

The attached Conditions of Approval have been updated to include the above condition.

ATTACHMENTS

- August 4, 2009 City Council Staff Report
- Draft Resolution No. 2009-
 - Addendum No. 12
 - Conditions of Approval
- Applicant's request Letter
- Late Correspondence Transmitted to the Council at the August 4th Meeting
- Public Comments



MEMORANDUM

TO: HONORABLE MAYOR & CITY COUNCIL MEMBERS
FROM: JOEL ROJAS, AICP DIRECTOR OF PLANNING,
BUILDING AND CODE ENFORCEMENT
DATE: AUGUST 4, 2009
SUBJECT: TERRANEA RESORT AND SPA – ZON2009-00198
(REVISION 'L' TO CUP 215, ET. AL.)
REVIEWED: CAROLYN LEHR, CITY MANAGER
Project Manager: Ara Michael Mihranian, AICP, Principal Planner

RECOMMENDATION

Adopt Resolution No. 2009-_____, approving Revision 'L' to Conditional Use Permit No. 215, et. al. by amending the Council adopted Conditions of Approval to allow:

1. The extension of the compliance date for completing outstanding conditions from August 1, 2009 to November 1, 2009, or prior to issuance of the Final Certificate of Occupancy for the main hotel building, which ever occurs first; and,
2. The expanded operation of the spa and massage facilities for "outcall massages" and "chair massages" within the property limits of the Resort.

EXECUTIVE SUMMARY

The applicant is requesting, and Staff is supporting, the Council's approval of an amendment to the Conditions of Approval to extend the deadline date for condition compliance from August 1, 2009 to November 1, 2009 and to allow "outcall massages" and "chair massages" within the Resort premises. The applicant is requesting additional time to comply with 10 outstanding conditions that are pending final sign-off and/or the review and approval by third parties, such as the City of Los Angeles and the City of Rolling Hills Estates for traffic mitigation measures. As for the "outcall massages" and "chair massages" Staff believes that these type of massages are typical for a resort like Terranea and are an acceptable operation provided they are permitted through the conditional use permit and subject to the requirements stated in Chapter 5.24 of the Rancho Palos Verdes Municipal Code.

BACKGROUND

On August 28, 2002, the Long Point Resort project was unanimously approved by the City Council. Subsequently, the City's decision was appealed to the Coastal Commission. On August 7, 2003, after conducting an appeal hearing, the Coastal Commission approved the project with modified conditions of approval. On October 7, 2003, the modified conditions were accepted by the City Council marking the Council's decision as the final project approval date. Subsequent to the Council's final approval of the original project, the Council has approved the following revisions:

- Revision 'A' – On September 7, 2004, the City Council amended the conditions of approval to allow a mix of 50 guest rooms or guest suites (maximum 66 keys) and 20 bungalow units (maximum 40 keys) to be sold to individual persons or private entities with deed restrictions limiting the duration of use. In addition, the Council agreed to establish a 1% Property Transfer Fee payable to a nonprofit organization when the units are sold.
- Revision 'B' – On April 19, 2005, the City Council amended Condition No. 40a to clarify the subdivision process available to the applicant for satisfying the State Subdivision Map Act requirements relating to the sale of the villas, casitas, bungalows, and hotel suites.
- Revision 'C' – On October 4, 2005, the City Council amended the conditions of approval to allow for limited valet and compact stall parking standards, and to eliminate the requirement for the construction of a Class I bicycle path.
- Revision 'D' – On March 21, 2006, the City Council amended the conditions of approval to change the approved project from a 3-hole golf practice facility with a driving range to a 9-hole short game golf academy.
- Revision 'E' – On December 5, 2006, the City Council amended the conditions of approval by further clarifying the landscape conditions regarding view protection from Palos Verdes Drive South, establishing maximum roof ridgeline elevations for each of the proposed structure, establishing conditions for outdoor events, and other miscellaneous clean-up items.
- Revision 'F' – On April 17, 2007, the City Council amended Condition No. 10 to defer the timing of when the applicant is to enter into a maintenance agreement with the City for maintenance of the required public amenities from "prior to the issuance of any grading or building permit" to "prior to the issuance of any Certificate of Occupancy."
- Revision 'G' – On March 4, 2008, the City Council amended Condition No. 51 to correct the maximum roof ridgelines called out in the conditions for the main hotel building, spa and fitness buildings and to allow minor modifications to the building heights for the lower pool facility and the specialty restaurant. Furthermore, Council amended Condition No. 49 to correct the maximum square footage limits for the spa and fitness buildings and to modify the maximum square footage limit for the greeting kiosk.
- Revision 'H' – On May 6, 2008, the City Council amended Variance No. 489 to approve construction hours beyond the times permitted by the Municipal Code; amended Condition No. 23 to extend the permitted hours of construction performed in the enclosed interiors of the main Hotel, Spa, and Fitness buildings between 6 a.m. and 10 p.m.; amended Condition No. 49g to clarify the total square footage limit for the lower pool facility; and Approved a Special

Construction Permit to allow construction on the following legal holidays: Columbus Day 2008, Veterans Day 2008, Martin Luther King Day 2009, Presidents Day 2009, and Memorial Day 2009.

- Revision 'I' – On October 7, 2008, the City Council amended the adopted Conditions of Approval to allow specific improvements to the lower beach area consisting of importing 1,500 cubic yards of sand to the area landward of the extreme-high tide line, installing security fencing adjacent to the toe of the bluff edge, constructing a vegetated drainage channel with native plantings to divert storm water, and constructing a pedestrian bridge over the proposed drainage channel.
- Revision 'J' – On November 18, 2008, the City Council amended the adopted Conditions of Approval to allow the issuance of Temporary Certificates of Occupancy by Building and Safety. Additionally, the City Council also amended Condition No. 40 so that the applicant can form a nonprofit organization pursuant to the requirements that must be completed for any of the "for-sale" units (villas, casitas, bungalows, and some hotel rooms) and amended Condition No. 27 to allow the "soft-opening" of the resort hotel prior to the issuance of Final Certificates of Occupancy or August 1, 2009, whichever occurs first.
- Revision 'K' – On May 4, 2009, the City Council amended the adopted Conditions of Approval to allow the installation of three flag poles (30' and 35' tall), the deferment of the construction of the required bus shelter at the entry driveway on the eastbound leg of Palos Verdes Drive South to June 1, 2010, the clarification of the deadline for performing the required undergrounding of existing utility poles on Palos Verdes Drive South, and the modification of the hours of operation for the public snack shop at the Lower Pool Facility. Additionally, the Council executed a Maintenance Agreement with Long Point Development, LLC. requiring the hotel operator to maintain the related public amenities, accepted the public amenities and the public easements for the related public amenities including public trails, access areas, overlooks / vista areas, parking, park area, and habitat areas, and received a status update on the public amenities bond.

In addition to the above, on May 17, 2005, March 21, 2006, and December 5, 2006, the City Council determined that modifications to the layout of the site plan, specifically in regards to the placement of certain buildings and ancillary improvements, were in substantial compliance with the original Council approved project. All of the minor modifications to the site plan approved by the City Council were subsequently approved and/or accepted by the Coastal Commission. The site plan modifications to the originally approved project approved by the City Council and the Coastal Commission are as follows:

- Hotel Building - reduced building footprint
- Specialty Restaurant - relocated as a new stand alone building
- Villa Units - reconfigured floor plan and reduced the number of buildings (no change to the number of room accommodations)
- Casita Units - reoriented buildings
- Bungalow Units - reoriented buildings
- Parking Structure - eliminated the parking structure

- Tennis Courts - eliminated the two tennis courts
- Spa Building - relocated and revised building footprint (two separate structures fitness building / spa building)
- Lookout Bar - expanded structure landward of the coastal setback line
- Parking Lot and Emergency Access Roads - reconfigured and widened emergency vehicle access
- Hotel Pools - reduced and relocated pool facilities

The project applicant is now requesting certain amendments to the Conditions of Approval to extend the compliance date for certain outstanding conditions from August 1, 2009 to November 1, 2009, and to allow the expanded operation of the spa and massage facilities for "outcall massages" and "chair massages" pursuant to the recently Council amended Ordinance No. 489 (Chapter 5.24).

DISCUSSION

Extension of the Outstanding Condition Compliance Deadline to November 1, 2009

In 2002, when the City Council originally approved the Terranea Resort and Spa project, conditions were included that required the applicant to complete specific site improvements and public amenities prior to opening the resort to the public. As a means of ensuring such improvements are constructed to the satisfaction of the City and in compliance with the intent of the conditions, the Council's adopted conditions of approval establishing specific time periods for condition compliance, such as "*prior to issuance of grading or building permits*" or "*prior to issuance of any certificate of occupancy.*"

At the November 18, 2008 City Council meeting, with the project construction nearing completion, Staff reported to the Council that there were 31 conditions out of the 205 total conditions that were tied to the "*issuance of any certificate of occupancy.*" Additionally, Staff reported its interpretation that no certificate of occupancy, including a temporary certificate of occupancy, could be issued by the City until the tasks identified in the 31 conditions are met.

In response to Staff's interpretation, the applicant expressed an interest in obtaining certificates of occupancy for components of the resort as they are completed in order to provide adequate time to allow for the real estate closing process to occur prior to the grand opening of the resort and to maintain a smooth and seamless transition between construction, operational preparations and the resort opening. As a result, the Council agreed to allow the issuance of Final Certificates of Occupancy for the project buildings (villas, casitas, bungalows, restaurants, spa, fitness building and other ancillary structures) with the exception of the main hotel building. However, in order to ensure that the outstanding tasks required by the remaining 31 conditions are completed to the City's satisfaction, the Council agreed to allow the opening of the main hotel building with the issuance of a Temporary Certificate of Occupancy. As such, the Council amended the following 31 conditions so that the word "any" was deleted and then added language that established a condition compliance deadline of August 1, 2009 or prior to the issuance of the final Certificate of Occupancy for the main hotel building, whichever occurs first.

Condition Nos. 10, 21, 27, 44, 63, 65, 66, 67, 68, 69, 71, 86, 87, 88, 95, 101, 103, 106, 109, 112, 119, 120, 124, 125, 126, 164, 172, 175, 180, 202, and 203.

The Terranea Resort and Spa opened for business in June. The project buildings, with the exception of the main hotel building, have been issued Final Certificates of Occupancy by the City's Building Official. The main hotel building has been issued a Temporary Certificate of Occupancy by the City's Building Official. Pursuant to the Council adopted conditions, the Temporary Certificate of Occupancy for the main hotel building will expire on August 1, 2009 (Until the Council takes action on the request to extend the condition compliance date, the main hotel building will be operating without a Temporary Certificate of Occupancy which is estimated to be 3-days). At this time, a Final Certificate of Occupancy for the main hotel building cannot be issued by the City's Building Official because there remain outstanding conditions that are pending compliance. The applicant has whittled down the outstanding tasks from 31 conditions in November 2008 to 12 conditions. Of the 12 conditions pending compliance, 10 conditions are tied to the August 1, 2009 date and 2 conditions must be met by December 31, 2009 (Condition Nos. 87 and 88).

As indicated in the attached request letter, the applicant seeks to extend the August 1, 2009 deadline to November 1, 2009 to allow additional time to comply with the outstanding tasks associated with 10 conditions. Some of the outstanding conditions are pending because they require review and approval by third parties, such as the City of Los Angeles and the City of Rolling Hills Estates for traffic mitigation measures, or require the final sign-off on certain documents or plans. As requested, the extended deadline will only need to apply to the following 10 conditions:

Condition Nos. 21, 27, 44, 101, 103, 112, 124, 125, 126, and 172

In regards to Condition Nos. 87 and 88, because the deadline date for condition compliance is set for December 31, 2009, Staff is not recommending, nor is the applicant requesting, a change to the deadline date. Staff would also like to point out that according to Condition No. 203 the applicant is required to pay the Affordable Housing In-Lieu fee, in the amount of \$931,910.00 by August 1, 2009. Staff is not recommending that the deadline date be changed for payment of the Affordable Housing In-Lieu fee because the funds have already been pledged towards the development of the 34-unit Crestridge Senior Affordable Housing Project, which the Council approved on March 3, 2009. Without this additional funding source, there would not be enough funds to develop the project. The applicant is aware of this and has agreed to pay the fee before the August 1, 2009 deadline.

Based on the foregoing discussion, Staff supports the proposed amendment to the conditions of approval to extend the condition compliance deadline from August 1, 2009 to November 1, 2009 for the previously stated 10 conditions. The amended conditions are shown in the attached resolution (new text is shown as underlined and deleted text is shown as a ~~strike-out~~).

Expanded Spa Services and Outcall Massages

The City Council recently adopted Ordinance No. 489, amending Chapter 5.24 (Massage Establishments and Technicians) of the Rancho Palos Verdes Municipal Code (RPVMC) to clarify the City's ability to regulate State-certified massage establishments with the passage of Senate Bill 731 (effective September 1, 2009). Additionally, Ordinance No. 489 was also adopted to address concerns raised by the Terranea Resort operators who indicated that the existing Code regulations would impact the desired spa operations at the resort site.

One of the many amendments to Chapter 5.24, as contained in Ordinance No. 489, includes defining "outcall massages." Until recently, "outcall massages" was defined to the extent of a blanket prohibition. Chapter 5.24 will continue to prohibit "outcall massages" unless they occur at a premise, such as Terranea, pursuant to the provisions of a conditional use permit. According to the Municipal Code, "outcall massages" is now defined as:

Any massage performed by a massage technician outside of a licensed massage establishment where the massage technician is employed. Outcall massages, including chair massages, are prohibited unless conducted on the premises where the massage establishment is located and such premises are subject to a conditional use permit that specifically authorizes the massage establishment and the performance of outcall massage services on said premises in accordance with applicable provisions of Chapter 5.24.

The recently approved new definition for "outcall massages" allows more varied services to be performed within locations that are regulated by a conditional use permit, such as Terranea Resort, which contain several locations where massages could be administered. For example, the definition now allows Terranea to conduct "chair massages" on the golf course and "outcall massages" in hotel rooms, provided that the existing conditional use permit is amended to allow such operations associated with the spa. It should be noted that Ordinance No. 489 does not allow Terranea Resort, or any massage establishment or massage technician, to perform massage services at private residences or other locations beyond the premises regulated by the conditional use permit.

Conditions of Approval No. 17, allows, among other things, the operation of a spa. However, Condition No. 17, nor any of the other conditions, does not allow spa or massage services, such as "outcall massages," beyond the spa building. As such, the applicant is requesting that the project's Conditional Use Permit be amended to allow flexibility for varied spa services typical of a resort facility by allowing "outcall massages" within the premises of the Resort. Specifically, the applicant is requesting that the Conditional Use Permit allow both "outcall massages" and "chair massages" within the limits of the 102-acre resort property, including, but not limited to, the lower beach area, golf facility, hotel rooms, bungalows, villas, casitas, and bungalows.

Staff believes that the applicant's request is in compliance with the newly adopted Ordinance and an acceptable and expected service that is typically available to patrons of a resort, such as Terranea. As such, Staff supports the proposed amendment to the

conditions of approval, and recommends that Condition Nos. 17 and 41 be modified accordingly. The amended conditions are shown in the attached resolution (new text shown as underlined).

Staff would like to point out that the above conditions will allow Terranea Resort to conduct "outcall massages" and "chair massages" subject to the provisions stated in Chapter 5.24. According to Chapter 5.24, such spa and massage services are subject to the following regulations:

- Hours of Operation
- Food, Beverages, Alcohol and Drugs
- Other Business (beauty oriented services, such as hair, nails, etc.)
- Medical certification

ENVIRONMENTAL ASSESSMENT

In accordance with the provisions of the California Environmental Quality Act (CEQA), Staff has determined that the proposed revision to the City Council approved conditions of approval will require an addendum to the Environmental Impact Report prepared and approved by the City Council under Resolution No. 2002-70 that allows the construction of a 400-room resort hotel with a golf academy/practice facility on the 102-acre Long Point parcel (6610 Palos Verdes Drive South). At the time the City Council adopted the Environmental Impact Report and Statement of Overriding considerations, it found that the Project's cumulative impacts, with the exception of the impacts to Noise and Air Quality, are not significant or that potential impacts could be mitigated to a less than significant impact, as noted in the Mitigation Monitoring Program.

Addendum No. 12 has been prepared for the proposed amendments to the conditions of approval to extend the condition compliance deadline for specific conditions from August 1, 2009 to November 1, 2009, and to allow the operation of "outcall massages" and "chair massages" within the 102-acre resort property limits, including the lower beach area, the golf course, the villas, the casitas, the bungalows, and the hotel rooms. Staff believes that the proposed amendments to the conditions will not introduce new environmental impacts nor intensify environmental impacts previously analyzed in the project EIR. This is because condition compliance is still required prior to the City's issuance of the Final Certificate of Occupancy for the main hotel building and is considered a clarification of the timing of condition compliance. As for allowing "outcall massages" and "chair massages" outside of the spa building, but within the limits of the resort premises, such an operation will not result in impacts to neighboring properties because in most cases, such massage services will occur within the interior of a building. In cases where such massage services occurs outside, such as the lower beach or the golf course, these areas are not visible from neighboring properties and typically involve no more than two persons (patron and massage technician), will occur during daytime hours, and will not involve amplified sound. Furthermore, all massage services are subject to the requirements states in Chapter 5.24 of the RPVMC. As a result, no further environmental review will be necessary other than the adoption of Addendum No. 12 to Environmental Assessment No. 725.

ADDITIONAL INFORMATION

Public Noticing

Pursuant to the Development Code, a public notice was originally published in the *Peninsula News* and sent to list-serve subscribers on July 16, 2009 inviting public comments on the proposed amendments to the project conditions for the August 4th meeting. At this time, no public comment letters were received by the City. In the event the City receives any public comment letters after the transmittal of this Staff Report, Staff will present those comments at the August 4th public hearing.

ATTACHMENTS

- Resolution No. 2009-____
 - Exhibit "A" – Addendum No. 12
 - Exhibit "B" - Conditions of Approval
- Applicant's Request Letters

RESOLUTION NO. 2009-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES APPROVING REVISION 'L' TO CONDITIONAL USE PERMIT NO. 215, GRADING PERMIT NO. 2229, COASTAL DEVELOPMENT PERMIT NO. 166, VARIANCE NO. 489, AND TENTATIVE PARCEL MAP NO. 26073 BY AMENDING THE CONDITIONS OF APPROVAL TO EXTEND THE COMPLIANCE DATE FOR COMPLETING OUTSTANDING CONDITIONS FROM AUGUST 1, 2009 TO NOVEMBER 1, 2009 AND TO EXPAND THE OPERATION OF THE SPA AND MASSAGE FACILITIES FOR "OUTCALL MASSAGES" AND "CHAIR MASSAGES" WITHIN THE PROPERTY LIMITS OF THE RESORT.

WHEREAS, on August 28, 2002, the City Council conditionally approved Conditional Use Permit No. 215, Grading Permit No. 2229, Coastal Development Permit No. 166, Variance No. 489, and Tentative Parcel Map No. 26073 to allow the construction of a 400-room resort hotel and bungalows with banquet and retail facilities, 50 casitas (3-keys for 150 total units), 32 villas, and a driving range with a 3-hole golf practice facility on property located at 6610 Palos Verdes Drive South; and

WHEREAS, the City Council's decision was subsequently appealed to the Coastal Commission which, after conducting several public hearings, approved the hotel project on August 7, 2003, with minor modifications to the City Council approved conditions; and

WHEREAS, on October 7, 2003, the City Council accepted the conditions of approval as modified by the Coastal Commission as the final approval and directed the applicant (Destination Development) to provide the Council with future updates on the status of the project; and

WHEREAS, on May 15, 2009, the project applicant filed a request to amend the Council adopted Conditions of Approval to allow extend the compliance date for completing outstanding conditions from August 1, 2009 to November 1, 2009 and to expand the operation of the spa and massage facilities for "outcall massages" and "chair massages" within the property limits of the Resort; and,

WHEREAS, the City Council reviewed and analyzed the applicant's request in accordance with the California Environmental Quality Act ("CEQA") and determined that the proposed revisions to the project conditions of approval will require an Addendum to the Final Environmental Impact Report ("FEIR"), which was certified by the City Council on May 7, 2002 under Resolution No. 2002-38, and which determined that the project's impacts, with the exception of the impacts related to Noise and Air Quality for which a statement of overriding considerations was adopted, are not significant or that the potential impacts could be mitigated to a less than significant impact. The City Council finds that the proposed amendments to the conditions of

approval will not alter nor diminish the spirit and intent of the original project approved by the City Council in 2002 because the project design and amenities, including the public amenities, will not be changed. Furthermore, the proposed amendments will not result in a deviation to the findings made by the Council when the project was approved, and does not modify the scope of the project nor the related uses and amenities. As such, the City Council finds that the amendments to the conditions of approval will not introduce new significant environmental effects or substantially increase the severity of the environmental impacts that previously were identified and analyzed in the FEIR; Furthermore, the City Council also finds that there are no changed circumstances or new information, which was not known at the time the FEIR was certified, that would require the preparation of a subsequent EIR or major revisions to the FEIR pursuant to CEQA Guidelines Section 15162, and, in accordance with Section 15164 of the State CEQA Guidelines, the City has prepared Addendum No. 12 to the FEIR (the "Addendum") attached herein as Exhibit A; and

WHEREAS, on July 16, 2009, pursuant to the City's Municipal Code, a public notice was published in the *Peninsula News* and mailed to property owners within a 500-foot radius of the project site and to interested parties including list-serve subscribers, inviting public comments on the proposed project revision; and

WHEREAS, on August 4, 2009, the City Council held a duly noticed public hearing to consider the revised project and after considering testimony from Staff and the public, continued the public hearing to August 18, 2009; and,

WHEREAS, on August 18, 2009, the City Council held a public hearing, continued from August 4, 2009, to consider the revised project and conditions of approval.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

Section 1. The proposed amendments to the conditions of approval will not amend the approved project that allows the construction of a resort hotel with 400 rooms within the main hotel structure and freestanding bungalows and 50 privately-owned, multiple-keyed casita units for a maximum aggregate of 150 additional accommodations, 32 privately-owned resort villas, a 68,000 square-foot conference/banquet facility, a spa and fitness center, 3 to 4 restaurants with an aggregate total of 22,500 square feet, and various public amenities, including public trails, a public park, 825 parking spaces for the Project, including 100 parking spaces for the general public.

Section 2. Pursuant to Section 17.60.050 of the Rancho Palos Verdes Municipal Code (the "Municipal Code"), and based upon the evidence presented in the record, including staff reports, oral and written testimony, the FEIR and the Addendums, the City Council hereby finds that the proposed amendments to the conditions of approval will not change the findings made for the approved project, adopted under Resolution

No. 2002-71, with respect to CUP No. 215, which are incorporated herein by this reference.

Section 3. Pursuant to Section 17.76.040, and based upon the evidence presented in the record, including staff reports, oral and written testimony, and the FEIR, the City Council hereby finds that the proposed amendments to the conditions of approval will not change or alter the findings made for the approved project, adopted under Resolution No. 2002-71, with respect to GRP No. 2229, which are incorporated herein by this reference.

Section 4. Pursuant to Section 17.72.090, and based upon the evidence presented in the record, including staff reports, oral and written testimony, the FEIR and the Addendums, the City Council hereby finds that the proposed amendments to the conditions of approval will not change or alter the findings made for the approved project, adopted under Resolution No. 2002-71, with respect to CDP No. 166, which are incorporated herein by this reference.

Section 5. Pursuant to the requirements of the Subdivision Map Act (commencing with Section 66410 of the California Government Code), and based upon the evidence presented in the record, including staff reports, oral and written testimony, the FEIR and the Addendums, the City Council hereby finds that the proposed amendments to the conditions of approval will not change or alter the findings made for the approved project, adopted under Resolution No. 2002-71, with respect to TPM No. 26073, which are incorporated herein by this reference.

Section 6. Pursuant to Section 17.64.050, and based upon the evidence presented in the record, including staff reports, oral and written testimony, the FEIR and the Addendums, the City Council hereby finds that the proposed amendments to the conditions of approval will not change or alter the findings made for the original approved project, adopted under Resolution No. 2002-71.

Section 7. Based upon the evidence presented in the record, the findings adopted under Resolution No. 2002-71, which are incorporated herein by reference, the FEIR and the Addendums, the City Council hereby approves Revision "L" to Conditional Use Permit No. 215, Grading Permit No. 2229, Coastal Development Permit No. 166, Variance No. 489, and Tentative Parcel Map No. 26073 subject to the conditions set forth in Exhibit "B," attached hereto and incorporated herein by this reference.

Section 8. Based upon the evidence presented in the record, the City Council finds that the proposed revision will not "lessen or avoid the intended effect" of the approved project with respect to providing coastal access and visitor serving use. The City Council further finds that the proposed amendments to the conditions of approval will not have the potential for adverse impacts to coastal resources or public access.

Section 9. The time within which the judicial review of the decision reflected in this Resolution, if available, must be sought as governed by Section 1094.6 of the California Code of Civil Procedure and other applicable short periods of limitation.

PASSED, APPROVED, AND ADOPTED this 18th day of August 2009.

Mayor

Attest:

City Clerk

State of California)
County of Los Angeles) ss
City of Rancho Palos Verdes)

I, Carla Morreale, the City Clerk of the City of Rancho Palos Verdes, do hereby certify that the above Resolution No. 2009-__ was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on August 18, 2009.

City Clerk

**RESOLUTION NO. 2009-__
EXHIBIT "A"
ADDENDUM NO. 12
TO FINAL ENVIRONMENT IMPACT REPORT
/ ENVIRONMENTAL ASSESSMENT NO. 725
AUGUST 18, 2009**

On May 7, 2002, the City Council adopted Resolution No. 2002-34, thereby adopting the Final Environment Impact Report for Environmental Assessment No. 725 to allow the construction of 400-room hotel and bungalows with banquet and retail facilities, 50-casitas (3-keys for 150 total units), 32 villas, and a driving range with a 3-hole golf practice facility. On August 28, 2002, the City Council adopted Resolution No. 2002-70, adopting Addendum No. 1; on September 7, 2004, the City Council adopted Resolution No. 2004-78, adopting Addendum No. 2; on April 19, 2005, the City Council adopted Resolution No. 2005-39, adopting Addendum No. 3; on October 4, 2005, the City Council adopted Resolution No. 2005-107, adopting Addendum No. 4; on March 21, 2006, the City Council adopted Resolution No. 2006-17, adopting Addendum No. 5; on December 5, 2006, the City Council adopted Resolution No. 2006-92, adopting Addendum No. 6; on April 17, 2007, the City Council adopted Resolution No. 2007-38, adopting Addendum No. 7; on March 4, 2008 the City Council adopted Resolution No. 2008-17, adopting Addendum No. 8; on May 6, 2008 the City Council adopted Resolution No. 2008-31, adopting Addendum No. 9, on November 18, 2008 the City Council adopted Resolution No. 2008-112, adopting Addendum No. 10, and on May 4, 2009, the City Council adopted Resolution No. 2009-24, adopting Addendum No. 11 to the Final Environmental Impact Report. In adopting the Final Environmental Impact Report and Statement of Overriding Considerations, the City Council found that the Project's cumulative impacts, with the exception of the impacts related to Noise and Air Quality for which the Statement of Overriding Considerations was adopted, are not significant or that potential impacts could be mitigated to a less than significant level.

The City Council has reviewed and analyzed the proposed amendments to the conditions of approval to extend the condition compliance deadline for specific conditions from August 1, 2009 to November 1, 2009, and to allow the operation of "outcall massages" and "chair massages" within the 102-acre resort property limits, including the lower beach area, the golf course, the villas, the casitas, the bungalows, and the hotel rooms. Having reviewed the applicant's request, the City Council is of the opinion that the revisions to the respective conditions will not alter nor diminish the spirit and intent of the original project approved by the City Council in 2002 nor the project revisions approved by the City Council in recent years. The proposed revisions will not result in any significant change that would effect the findings made by the Council when the project was approved, and does not modify the scope of the project nor the related uses and amenities. Furthermore, the proposed revisions will not introduce new significant environmental effects or substantially increase the severity of the environmental impacts that previously were identified and analyzed in the FEIR.

Therefore, the City Council finds that there are no changed circumstances or new information, which were not known at the time the FEIR was certified, that would require the preparation of a subsequent EIR or major revisions to the FEIR pursuant to CEQA Guidelines Section 15162. In accordance with Section 15164 of the State CEQA Guidelines, the City Council has independently reviewed and considered and hereby adopts this Addendum No. 12 to the FEIR.

RESOLUTION NO. 2009-__ - EXHIBIT “B”
LONG POINT RESORT HOTEL
CONDITIONS OF APPROVAL

(REVISION ‘L’ – COUNCIL APPROVED AUGUST 18, 2009)

(Coastal Permit No. 166, Conditional Use Permit No. 215,
Grading Permit No. 2229, Variance No. 489, and Tentative Parcel Map No. 26073)

GENERAL CONDITIONS

- 1) The approvals granted by this resolution shall not become effective until the applicant and property owners submit a written affidavit that each has read, understands and accepts all conditions of approval contained herein. Said affidavits shall be submitted to the City no later than ninety (90) days from the date of approval of the project by the City Council. If the applicant and/or the property owner fail to submit the written affidavit required by this condition within the required 90 days, this resolution approving Coastal Development Permit No. 166, Conditional Use Permit No. 215, Grading Permit No. 2229, Variance No. 489 and Tentative Parcel Map No. 26073 shall be null and void and of no further effect.
- 2) In accordance with the provisions of Fish and Game Code §711.4 and Title 14, California Code of Regulations, §753.5, the applicant shall submit a check payable to the County of Los Angeles in the amount of \$875.00 for the Fish and Game Environmental Filing Fee. This check shall be submitted to the City within five (5) business days of City Council approval of this project. If required, the applicant shall also pay any fine imposed by the Department of Fish and Game.
- 3) Each and every mitigation measure contained in the Mitigation Monitoring program attached as Exhibit “C” of Resolution No. 2002-34 is hereby incorporated by reference into the Conditions of Approval for Coastal Development Permit No. 166, Conditional Use Permit No. 215, Grading Permit No. 2229, Variance No. 489 and Tentative Parcel Map No. 26073.
- 4) The applicant shall fully implement and continue for as long as the hotel is operated the Mitigation Monitoring Program attached as Exhibit “C” to Resolution No. 2002-34 and execute all mitigation measures as identified and set forth in the Final Environmental Impact Report for the project as certified in said Resolution No. 2002-34.
- 5) The owner of the resort hotel and the property upon which the hotel is located shall be responsible for implementing and ensuring compliance with all of the conditions of approval stated herein. Accordingly, as used herein, the term “applicant” shall include the owner of the resort hotel and the property upon which the hotel is located.

- 6) The conditions set forth in this Resolution are organized by application type for ease of reference. Regardless of such organization, each condition is universally applicable to the entire project site, unless a condition clearly indicates otherwise. Said conditions shall be applicable as long as a hotel is operated on the property, unless otherwise stated herein.
- 7) In the event that a condition of approval is in conflict or is inconsistent with any mitigation measure for this project, the more restrictive shall govern.
- 8) The applicant shall pay the Environmental Excise Tax in accordance with the Rancho Palos Verdes Municipal Code (RPVMC).
- 9) The Resort developer shall be responsible for constructing the public amenities required by these conditions of approval. A bond, letter of credit or other security acceptable to the Director of Public Works and the City Attorney shall be provided to secure completion of such Public Amenities.
- 10) Prior to the issuance of a final Certificate of Occupancy for the main hotel building or by August 1, 2009 or the dedication of any public amenity to the City, the applicant shall enter into a maintenance agreement, approved by the City Council, that requires the owner of the property to have the hotel operator maintain to the City's satisfaction the public amenities, including, but not limited to the bluff-top park, the lower beach area, park benches and tables, public trails (pedestrian and bicycle), bicycle racks, public restrooms (including the Fishing Access restroom facilities), landscaping, habitat protection, general public parking lot near the resort hotel building, fences, irrigation, and signs to name a few, as long as a hotel is operated on the property. Furthermore, the applicant shall specify in the agreement how funding will be provided to maintain the public improvements constructed as part of the project which are not maintained by the City, County or other governmental agency.

(REVISED PER RESOLUTION NO. 2007-38 ON APRIL 17, 2007)

(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 11) The Resort owner shall maintain all on-site drainage facilities not accepted by Los Angeles County, including but not limited to structures, pipelines, open channels, retention and desilting basins, mechanical and natural filtering systems, and monitoring systems, so long as the property is operated as a resort hotel. A bond, letter of credit or other security acceptable to the City shall be provided to secure completion of such drainage facilities. A bond to cover the cost of their maintenance for a period of 2 years after completion shall also be provided to the City.

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- 12) Subject to the agreement of Los Angeles County, the applicant shall turn over all eligible drainage facilities to the Los Angeles County Public Works Department upon completion and acceptance of the facilities by the County of Los Angeles.
 - 13) The applicant shall be required to pay 110% of the estimated amount of the cost of services to be provided on behalf of the City by outside consultants that have been retained by the City to render services specifically in connection with this project, in the form of a trust deposit account, prior to commencement of such services (e.g. golf safety consultant, geotechnical consultants, biologist, and landscape architect to name a few.). Services provided by the City Attorney and other consultants that routinely provide services to the City shall be exempt from this condition. However, in such cases, the applicant shall adequately fund said trust deposit accounts prior to the commencement of services, in amounts reasonably requested by the City, based upon an estimate of the cost of services for the period of at least 90 days to which services are rendered. In addition, the trust deposits shall be replenished within thirty days of receipt of notice from the City that additional funds are needed.
- 13A) The applicant shall be required to pay 100% of the estimated amount of the cost of the services that were provided by the City Attorney's Office and by outside consultants that were retained by the City Attorney's Office to render services on behalf of the City specifically in connection with the creation of the TOT Rebate Program and Ordinance No. 490 and the due diligence analysis pertaining to Terranea itself and the ability to repay the TOT to the City, all of which were performed in response to the applicant's request for the establishment of the TOT Rebate Program and the Ordinance. The funds that are received from the applicant for this purpose shall be held in, and disbursed from, a City trust account that is established for this purpose. The balance owed the City pursuant to trust deposit requests dated June 19, 2009 and July 21, 2009 in the amount of \$135,328.97 shall be paid to the City on or before September 14, 2009. The applicant shall replenish the trust deposit within thirty days of receipt of notice from the City that additional funds are needed to pay for said services. The City shall refund to the applicant any excess amount that is remaining in the trust account after all such disbursements are made.

(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)

- 14) All costs associated with plan check reviews and site inspections for the Department of Public Works shall be incurred by the applicant through the establishment of a trust deposit with the Director of Public Works at the time of plan check submittal or site inspection request.

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- 15) All City Attorney costs associated with the review and approval of the conditions stated herein shall be incurred by the applicant in the form of a trust deposit established with the City.
- 16) No later than six (6) months after the issuance of the Certificate of Occupancy for the main resort hotel building or no later than 3 months after the commencement of the operation of the 9-hole golf course, or as frequently as the Director of Planning, Building and Code Enforcement deems necessary, the City Council shall review the Conditions of Approval contained herein at a duly noticed public hearing. As part of said review, the City Council shall assess the applicant's compliance with the conditions of approval and the adequacy of the conditions imposed. At that time, the City Council may add, delete or modify any conditions of approval as evidence presented at the hearing demonstrates are necessary and appropriate to address impacts resulting from operation of the project, including golf safety. Said modifications shall not result in substantial changes to the design of the hotel structures or to the ancillary structures. Notice of said review hearing shall be published and provided to owners of property within a 500' radius of the site, to persons requesting notice, to all affected homeowners associations, and to the property owner in accordance the RPVMC. As part of the review, the City Council shall consider such items as the parking conditions, circulation patterns (pedestrian, bicycle, and vehicular), lighting, landscaping, noise, the operation of outdoor events, and golf safety. The Council may also consider other concerns raised by the Council, Planning Commission, Finance Advisory Commission, Traffic Committee and/or interested parties. The City Council may require such subsequent additional reviews, as the City Council deems appropriate. This provision shall not be construed as a limitation on the City's ability to enforce any provision of the RPVMC regarding this project.

If any safety issues arise concerning the operation of the 9-hole golf course, the safety issues shall be immediately addressed by the applicant to the satisfaction of the Director of Planning, Building and Code Enforcement.

**(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)
(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)**

- 17) These approvals authorize the construction and operation of a resort hotel, a 9-hole golf course and other related amenities. Any significant changes to the operational characteristics of the development, including, but not limited to, significant changes to the site configuration or the 9-hole golf course; number of guest rooms (increases or decreases); size or operation of the conference center, banquet facilities, spa (including outcall massages and chair massages conducted on the Resort premises only), restaurants, or other ancillary uses or significant alterations shall require an application for revision to this Conditional

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Use Permit pursuant to the provisions stated in the RPVMC. At that time, the City Council may impose such conditions, as it deems necessary upon the proposed use resulting from operations of the project. Further, the Council may consider all issues relevant to the proposed change of use.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)

- 18) These approvals shall expire twenty-four (24) months from the date of the City Council approval unless building permits for the main hotel structure have been applied for and are being diligently pursued. Extensions of up to one (1) year may be granted by the City Council, if requested prior to expiration. Such a time extension request shall be considered by the City Council at a duly noticed public hearing, pursuant to the provisions stated in the RPVMC.
- 19) The hotel spa facility, and all the amenities therein, including the pool, shall be made available to the general public for a reasonable fee for use basis. Appropriate promotions shall be offered to encourage use of the spa facility by non-hotel guests, including area residents.
- 20) The 9-hole golf course shall be made available to the general public for a reasonable fee for use basis. Appropriate promotions shall be offered to encourage use of the 9-hole golf course by non-hotel guests, including area residents

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

- 21) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August November 1, 2009, whichever occurs first, the 9-hole golf course, public trails, public parks and public areas shall be designed to protect golfers and the general public in accordance with common safety standards and practices in the industry, subject to review and approval by the City's duly assigned Golf Safety Consultant. The final golf course design shall incorporate the recommendations provided by the City's Golf Safety Consultant. The applicant shall establish a trust deposit account with the City to cover all costs associated with the Golf Safety Consultant's review, as required in Condition No. 13.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)
(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)

22) Temporary construction fencing and temporary public trail fencing shall be installed in accordance with RPVMC. The beach access trail and associated parking area shall remain open to the public during City park hours during project construction with limited closures, as approved by the Director of Planning, Building and Code Enforcement, to address safety issues that are directly related to grading or other construction activities, including the importation of sand to the lower beach area. Signs notifying the public of the closure of the beach access trail and parking area shall be posted in a visible public location at least 30-days in advance of the closure. The closure of the beach access trail and the associated parking area, the designation of temporary beach trail access and a temporary associated parking area and the language and placement of public notice signs shall be submitted to the Director of Planning, Building and Code Enforcement for review and approval at least 45-days before said closure.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)
(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)

23) All on-site construction and grading activities, including the importation of sand to the lower beach area, shall be limited to the hours between seven a.m. and seven p.m. Monday through Saturday. However, the permitted hours of construction for the interior work on the Hotel, Spa and Fitness buildings shall be between six a.m. and ten p.m. Monday through Saturday ("extended hours of construction"), provided that said buildings are entirely enclosed with walls, roofs, doors and windows. The extended hours of construction, as expressly permitted herein, shall be monitored by City Staff or independent consultants hired by the City with associated expenses to be borne by the applicant through the establishment of a trust deposit. Monitoring shall include, at a minimum, noise and light impacts. The approval of the extended hours of construction shall be subject, at any given time, to cancelation or further restrictions as deemed appropriate by the Director of Planning, Building and Code Enforcement based on the ability of the applicant to make adjustments due to public complaints or monitoring reports.

No construction shall occur on Sundays or legal holidays as set forth in RPVMC unless a special construction permit, allowing construction work on legal holidays between the hours of 7:00 am and 7:00 pm, is first obtained from the Director of Planning, Building and Code Enforcement. A Special Construction Permit shall not be issued by the City for Veteran's Day 2008 and Memorial Day 2009.

Pursuant to Condition No. 140, an updated Construction Management Plan shall be reviewed and approved by the Director of Public Works and the Planning Director prior to conducting interior work during the extended hours of construction. The updated Construction Management Plan shall address, but not

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limited to, parking, noise, vehicle ingress and egress, lighting, equipment staging, and delivery of materials.

(REVISED PER RESOLUTION NO. 2008-31 ON MAY 6, 2008)
(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)

- 24) Construction and grading activities, including the importation of sand to the lower beach area, within the public right-of-way shall be limited to the days and hours approved by the Director of Public Works at the time of permit issuance.

(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)

- 25) No on-site repair, maintenance or delivery of equipment and/or materials shall be performed before seven a.m. or after seven p.m. Monday through Saturday, nor on any Sunday or legal holiday, unless otherwise specified in the conditions stated herein or a Special Construction Permit is obtained from the City. Emergency repairs are exempt from this condition.
- 26) All construction activity shall generally adhere to the phasing scheme identified in the Addendum to the Certified Environmental Impact Report shown in Resolution No. 2002-70 Any significant changes to the construction activity schedule shall be reviewed and approved by the Director of Planning, Building and Code Enforcement.
- 27) Temporary Certificates of Occupancy shall be issued by the City's Building Official to allow the use and occupancy of all or a portion of the Terranea Resort, including by employees and paying guests (for overnight occupancy) prior to the issuance of any Final Certificate of Occupancy. Issuance of a Temporary Certificate of Occupancy is contingent on first obtaining final inspections and sign-offs by the City's Building Official and the Los Angeles County Fire Department for items such as, but not limited to, Building, Electrical, Mechanical, and Plumbing permits, building-related egress conditions including sidewalks and ADA compliant clearances, and the completion of all life and safety measures. The City's Building Official may revoke or suspend any or all of the Temporary Certificates of Occupancy if any public safety issue arises.

Any Temporary Certificate of Occupancy shall expire when a final Certificate of Occupancy is issued for a particular structure or by August November 1, 2009, whichever occurs first. On or before August November 1, 2009 the developer shall obtain Final Certificates of Occupancy for the entire resort, including ancillary resort amenities such as the golf course, restaurants, and spa/fitness building.

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**(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)**

Indemnification/Insurance

- 28) The owner of the property upon which the project is located shall hold harmless and indemnify City, members of its City Council, boards, committees, commissions, officers, employees, servants, attorneys, volunteers, and agents serving as independent contractors in the role of city or agency officials, (collectively, "Indemnitees"), from any claim, demand, damage, liability, loss, cost or expense, including but not limited to death or injury to any person and injury to any property, resulting from willful misconduct, negligent acts, errors or omissions of the owner, the applicant, the project operator, or any of their respective officers, employees, or agents, arising or claimed to arise, directly or indirectly, in whole or in part, out of, in connection with, resulting from, or related to the construction or the operation of the project approved by this resolution.
- 29) The applicant shall defend, with counsel satisfactory to the City, indemnify and hold harmless the City and its agents, officers, commissions, boards, committees and employees from any claim, action or proceeding against the City or its agents, officers, commissions, boards, committee or employees, to attack, set aside, void or annul this resolution or one or more of the approvals set forth in this resolution and PC Resolutions 2001-37, 2001-39, and 2001-40. Alternatively, at the City's election, the City may choose to defend itself from any claim, action or proceeding to attack, set aside, void or annul this resolution or one or more of the approvals set forth in this resolution. In that case, the applicant shall reimburse the City for all of its costs, including attorney fees, arising from such claim, action or proceeding. The obligations set forth in this condition include the obligation to indemnify or reimburse the City for any attorney fees that the City becomes obligated to pay as a result of any claim, action or proceeding within the scope of this condition.

The City shall promptly notify the applicant of any claim, action or proceeding within the scope of this condition and the City shall cooperate fully in the defense of any such claim or action.

- 30) The applicant shall submit to the City Attorney for review and approval an agreement whereby the applicant shall indemnify, defend and hold the City and members of its City Council, boards, committees, commissions, officers, employees, servants, attorneys, volunteers, and agents serving as independent contractors in the role of city or agency officials, (collectively, "Indemnitees"), harmless from any claim, demand, damage, liability, loss, cost or expense,

including, but not limited to, death or injury to any person and injury to any property, caused by golf balls or any other golf-related equipment.

- 31) The applicant shall procure and maintain in full force and effect during the operation of the hotel and/or 9-hole golf course primary general liability insurance, which is applicable to, and provides coverage for only this hotel and 9-hole golf course, in an amount of \$5 million dollars, which amount shall be increased on each fifth anniversary of the commencement of operation of the hotel to reflect increases in the consumer price index for the Los Angeles County area. Such insurance shall insure against claims for injuries to persons or damages to property that may arise from or in connection with the operation of the subject resort hotel and 9-hole golf course authorized by this resolution. Such insurance shall name the City and the members of its City Council, boards, committees, commissions, officers, employees, servants, attorneys, volunteers and agents serving as its independent contractors in the role of City officials, as additional insureds. Said insurance, shall be issued by an insurer that is admitted to do business in the State of California with a Best's rating of at least A-VII or a rating of at least A by Standard & Poor's, and shall comply with all of the following requirements:
- (a) The coverage shall contain no limitations on the scope of protection afforded to City, its officers, officials, employees, volunteers or agents serving as independent contractors in the role of city or agency officials which are not also limitations applicable to the named insured.
 - (b) For any claims related to the project, applicant's insurance coverage shall be primary insurance as respects City, members of its City Council, boards, committees, commissions, officers, employees, attorneys, volunteers and agents serving as independent contractors in the role of city or agency officials.
 - (c) Applicant's \$2 million primary insurance shall apply separately to each insured against whom claim is made or suit is brought. Additionally, the limits of applicant's \$2 million primary insurance shall apply separately to the project site.
 - (d) Each insurance policy required by this condition shall be endorsed to state that coverage shall not be canceled except after 30-days prior written notice by first class mail has been given to City.
 - (e) Each insurance policy required by this condition shall be endorsed to state that coverage shall not be materially modified except after 5-

business days prior written notice by first class mail has been given to City.

- (f) Each insurance policy required by this condition shall expressly waive the insurer's right of subrogation against City and members of its City Council, boards and commissions, officers, employees, servants, attorneys, volunteers, and agents serving as independent contractors in the role of city or agency officials.
- (g) Copies of the endorsements and certificates required by this condition shall be provided to the City when the insurance is first obtained and with each renewal of the policy.
- (h) No golf course facilities may be operated unless such general liability insurance policy is in effect.

The applicant also shall procure and maintain in full force and effect during the operation of the hotel and/or 9-hole golf course additional general liability insurance in the amount of \$3 million dollars to insure against claims for injuries to persons or damages to property which may arise from or in connection with the operation of the resort hotel and 9-hole golf course authorized by this resolution. Such insurance shall likewise name the City and the members of its City Council, boards, committees, commissions, officers, employees, servants, attorneys, volunteers and agents serving as its independent contractors in the role of City officials, as additional insureds. Said insurance, may at applicant's option, be in the form of a separate excess insurance policy and may be issued by a non-admitted carrier so long as the insurer is authorized to do business in the State of California with a Best's rating of at least A-VII or a rating of at least A by Standard & Poor's and shall comply with all of the requirements of paragraphs a, b, d, e, f and g of this Condition 33.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

COASTAL PERMIT NO. 166

- 32) All plans submitted to the City for review shall identify the location of the Coastal Setback Line and the Coastal Structure Setback Line in reference to the proposed structure. Furthermore, all plans shall identify the Habitat Enhancement Area, including the 50' planting transitional areas, as described in Condition No. 78.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

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- 33) Except as provided herein as part of the Conditional Use Permit and Variance (allowing the construction of the Lower Pool Facility within the Coastal Setback Zone and the lower beach improvements), pursuant to the RPVMC, no new uses or structural improvements shall be allowed in the area seaward of the Coastal Setback Line including, but not limited to, slabs, walkways, decks 6" or more in height, walls or structures over 42" in height, fountains, irrigation systems, pools, spa, architectural features, such as cornices, eaves, belt courses, vertical supports or members, chimneys, and grading involving more than 20 cubic yards of earth movement, or more than three feet of cut or fill.

(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)

- 34) All proposed structures within the Point Fermin Vista Corridor and Catalina View Corridor shall be constructed in accordance with the height limitations as identified in the City's Coastal Specific Plan and the project's certified EIR.

CONDITIONAL USE PERMIT NO. 215

Hotel Operations

- 35) A. The main hotel building and the freestanding bungalow units shall consist of no more than an aggregate total of 400 rooms (360 hotel rooms and 20 bungalow units, two keys per bungalow) and shall not be designed for multiple keys for a configuration exceeding 400 rooms. A main hotel room, for purposes herein, shall consist of any of the following: a typical guest room, a two-bay suite, one or more multiple-bay rooms with a single key, or a hospitality suite, as shown in Exhibit 7.14 of the Long Point Resort Permit Documentation dated June 23, 2000. Furthermore, the bungalow units shall consist of two-keyed accommodations with one or more bedroom areas which may contain a living room area as shown in Exhibit 7.15 of the Long Point Resort Permit Documentation dated June 23, 2000.
- B. A maximum total of 50 hotel suites and guestrooms may be sold to individual persons or private entities, subject to the following restrictions: An owner of a unit may utilize that unit for no more than sixty (60) days per calendar year, and no more than twenty-nine (29) consecutive days at any one time. A minimum seven (7) day period shall intervene between each twenty-nine (29) consecutive day period of occupancy by the owner. When not being used by the owner, the hotel suite or guestroom shall be available as a hotel accommodation, which shall be fully managed by the resort hotel operator. Deed restrictions to this effect, which are satisfactory to the City Attorney, shall be recorded prior to any sale of any unit. The 50 hotel suites and guestrooms that may be sold to individual persons or private entities will consist of a mix of single-key suites, suites with two-keys, and single-key

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guestrooms. The precise location and mix of these units shall be described in detail at the time the tract map is processed by the City, but in no event shall the number of keys exceed 66 keys.

- C. The bungalow units shall consist of no more than 20 bungalow units, with a maximum keying configuration of two (2) keys per bungalow unit resulting in a maximum possible 40 accommodations. The bungalow units may be sold to individual persons or private entities, subject to the following restrictions: An owner of a unit may utilize that unit for no more than sixty (60) days per calendar year, and no more than twenty-nine (29) consecutive days at any one time. A minimum seven (7) day period shall intervene between each twenty-nine (29) consecutive day period of occupancy by the owner. When not being used by the owner, the bungalow unit shall be available as a hotel accommodation, which shall be fully managed by the resort hotel operator. Deed restrictions to this effect, which are satisfactory to the City Attorney, shall be recorded prior to any sale of any unit.

(REVISED PER RESOLUTION NO. 2004-78 ON SEPTEMBER 7, 2004)

- 36) The casita units shall consist of no more than 50 casita units, with a maximum keying configuration of three (3) keys per casita unit resulting in a maximum possible 150 accommodations. The casita units may be sold to individual persons or private entities, subject to the following restriction: An owner of a unit may utilize that unit for no more than sixty (60) days per calendar year, and no more than twenty-nine (29) consecutive days at any one time. A minimum seven (7) day period shall intervene between each twenty-nine (29) consecutive day period of occupancy by the owner. When not being used by the owner, the casitas unit shall be available as a hotel accommodation, which shall be fully managed by the resort hotel operator. Deed restrictions to this effect, which are satisfactory to the City Attorney, shall be recorded prior to any sale of any unit.
- 37) The resort villa units shall consist of no more than 32 single keyed units. The resort villa units may be sold to individual persons or private entities, subject to the following restriction: An owner of a unit may utilize that unit for no more than ninety (90) days per calendar year, and no more than twenty-nine (29) consecutive days at any one time. A minimum seven (7) day period shall intervene between each twenty-nine (29) consecutive day period of occupancy by the owner. The Villas shall be fully managed by the resort hotel operator when not used by the owners, and made available for rental by the general public. When not being used by the owner, the villa shall be available as a hotel accommodation, which shall be fully managed by the resort hotel operator. Deed restrictions to this effect, which are satisfactory to the City Attorney, shall be recorded prior to any sale of any unit.

(REVISED PER RESOLUTION NO. 2004-78 ON SEPTEMBER 7, 2004)

- 38) If any villa unit, casita unit, bungalow unit, hotel suite or guestroom is not sold or made available for sale, the unit shall be available as a hotel accommodation which shall be fully managed by the resort hotel operator.

(REVISED PER RESOLUTION NO. 2004-78 ON SEPTEMBER 7, 2004)

- 39) Any person or entity ("hotel guest") who pays the hotel operator for the privilege of occupying one or more rooms, bungalows, villas or casitas ("unit") shall not occupy or have the right to occupy any unit for more than twenty-nine (29) consecutive days. On or before the twenty-ninth day, the hotel guest shall be required to check out of the unit(s).
- 40) Prior to issuance of building permits for the resort villa units, casita units, bungalow units, and hotel suite or guestrooms that may be sold to individual persons or private entities, the following shall be completed:

- a) The applicant shall process a parcel map or tract map in accordance with the Subdivision Map Act.

(REVISED PER RESOLUTION NO. 2005-39 ON APRIL 19, 2005)

- b) Deed Restrictions, which restrict the use and operation of all of the privately owned units and are in a form that is acceptable to the City Attorney, shall be recorded against all of those units, including, without limitation, the bungalow units, resort villas, casitas and the fifty hotel guest suites or guest rooms.
- c) The applicant shall create a new nonprofit corporation with a seven-member board of directors to undertake the duties specified in this condition. Three members of the nonprofit corporation shall be appointed by the City Council, and three members of the nonprofit corporation shall be appointed by applicant or its successor in interest. The six members of the Board who have been appointed by the City Council and the applicant shall select the seventh Board Member. The nonprofit corporation will be charged with spending its resources (net of its operating expenses) for only the following purposes: the maintenance, repair, replacement and enhancement of trails, parks, open space areas and streets within the City of Rancho Palos Verdes (other than on the project site), which are owned in fee or by easement or by license by the City. The first priority for the

expenditure of the funds will be on trails, parks and other areas that abut or are in proximity to the project site.

**(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-24 ON MAY 4, 2009)**

- d) The applicant shall record against all of the condominium owned units, including, without limitation, the bungalow units, resort villas, casitas and fifty hotel guest suites or guestrooms a Declaration of Covenants, Conditions and Restrictions and Notice of Transfer Fee. Such document(s) shall set forth the obligation to pay a 1% transfer fee upon each transfer of ownership of a unit, which 1% shall be assessed against the sale price for the unit. The transfer fee is not applicable on the initial sale from the master developer to the first owner. The fee shall be required to be paid through the escrow for the sale or, if no escrow is used, at the time of recordation of the deed transferring title. The fee will be paid to the non-profit corporation. The recorded documents shall provide a lien right in favor of the nonprofit corporation to secure the payment obligations and any costs of collection, including, without limitation, attorney's fees and court costs

(REVISED PER RESOLUTION NO. 2004-78 ON SEPTEMBER 7, 2004)

- 41) a) The Resort Hotel building, ancillary structures, including but not limited to the Lower Pool Facility, and all accessory buildings associated with the 9-hole golf course shall substantially conform to the plans approved by the City Council and stamped by the Planning Department with the effective date of this approval.
- b) The Resort Hotel may conduct outdoor events, in compliance with the following standards:
- i. Amplified Sound, whether recorded or live, shall be permitted during the hours set forth in (iii), and speakers for amplified sound shall be, oriented towards the ocean away from surrounding properties.
 - ii. No outdoor spot-lights, neon lights, or other specialty lighting shall be permitted to shine into the sky, habitat areas, or onto neighboring properties, except during the hours set forth in (iii).
 - iii. Hours for (i) and (ii) use:
 - Sundays through Thursdays 8:00 am to 10:00 p.m.
 - Fridays and Saturdays 8:00 am to midnight

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A special use permit shall be obtained from the Planning Department for uses of (i) and (ii) outside of such hours.

No later than six (6) months after the issuance of the Certificate of Occupancy for the main hotel building, the operation of the outdoor events shall be reviewed by the City Council pursuant to the criteria set forth in Condition No. 16.

- c) The Resort may conduct, as part of the spa operations, outcall massages and chair massages within the premises of the 102-acre Resort property, including but not limited to the lower beach area, the golf course, the villas, the casitas, the bungalows, and hotel rooms. Such spa and massage services shall be operated in compliance with Chapter 5.24 of the RPVMC and State licensing requirements, including but not limited to hours of operation and food, beverages, alcohol, and drugs requirements.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)

- 42) The lower beach area approved by the City Council on October 7, 2008 and the public section of the Lower Pool Facility, which consists of public restroom facilities and a viewing deck area, as shown on the plans approved by the City Council on the effective date of the adoption of these conditions, shall be open and made available to the general public during City park hours, as specified in the RPVMC. The public snack shop, located within the Lower Pool Facility, shall be open and made available to the public concurrent with the hours of operation of the hotel guest component of the structure, with a trial period of one year from the date of the opening of the snack shop, at which time the City Council will review the hours of operation of the public snack shop.

(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)

(REVISED PER RESOLUTION NO. 2009-24 ON MAY 4, 2009)

- 43) Approval of this conditional use permit is contingent upon the concurrent and continuous operation of the primary components of the project, which are the hotel, villas, casitas, banquet facilities, spa facilities, retail facilities, and the 9-hole golf course.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

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- 44) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August November 1, 2009, whichever occurs first, the use of gardening equipment for the 9-hole golf course and landscape areas shall be controlled by a Golf and Hotel Landscape Maintenance Plan which is subject to review and approval by the Director of Planning, Building and Code Enforcement, based on an analysis of equipment noise levels and potential impacts to neighboring residents. The implementation of the Plan shall be formally reviewed by the Director of Planning, Building and Code Enforcement three (3) months after the first day of operation of the 9-hole golf course, and shall be subsequently reviewed on an annual basis thereafter. At the three (3) month review, the Director may determine that the Plan needs to be revised to address potential noise impacts. The Director may also determine that additional review periods and/or other conditions shall be applied to the Maintenance Plan.

Furthermore, if the City receives any justified noise complaints that are caused by the maintenance of the golf or hotel landscaped and lawn areas, as verified by the Director of Planning, Building and Code Enforcement, upon receipt of notice from the City, the operators of the hotel and the 9-hole golf course shall respond to said verified complaint by notifying the City and implementing corrective measures within 24 hours from the time of said notice.

The Director's decision on any matter concerning the Landscape Maintenance Plan may be appealed to the City Council. Any violation of this condition may result in the revocation of the Conditional Use Permit.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)
(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)

- 45) All deliveries utilizing vehicles over forty (40) feet in length shall be limited to the hours of 5:00 a.m. to 9:00 p.m. Monday through Friday, and 7:00 a.m. to 9:00 p.m. on Saturday and Sunday. Other vehicles shall be allowed to make deliveries 24 hours a day.
- 46) No heliport operations are approved or permitted for the Resort Hotel Area. If in the future such operations are desired, a revision to this Conditional Use Permit shall be required. Any such revision shall be reviewed by the City Council subject to the provisions stated in the RPVMC.
- 47) The applicant shall provide twenty-four (24) hour monitoring by appropriately trained hotel personnel of the project site throughout the calendar year. The monitoring shall include observation of all parks, trails and habitat areas. Additionally, the resort hotel shall provide regular monitoring of the area

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surrounding the lower pool facility and the nearby shore (including the lower beach area), during City park hours, as specified in the RPVMC.

(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)

- 48) The Maintenance Building and associated maintenance repairs shall be conducted in an area that is visually screened with landscaping from public view.

Building Design Standards

- 49) The resort hotel shall contain the following principal visitor-serving structures and uses, and shall substantially comply with, and not to exceed, the following square footage numbers:

- a) Conference Center / Banquet Facilities – 60,000 square feet
- b) Restaurant, bar and lounge - approximately 22,500 square feet
- c) Resort related retail, visitor services and guest amenities – approximately 20,000 square feet.
- d) Spa Building - 21,077 square feet
- Fitness Building – 4,797 square feet
- e) Swimming pools - Three for the resort hotel (including the lower pool facility), one for the West Casitas, one for the Resort Villas, and one within the spa facility
- f) Pool Cabanas: - commensurate with size of adjacent pool
- g) Pacifica Pool Building – 1,400 square feet (Hotel Guest Area: consisting of 496 square feet of restroom facilities, 36 square feet of storage closet space, 431 square feet of pool kitchen area, 6,500 square feet of deck area excluding the 960 square foot pool. Public Area: consisting of no less than 3,600 square feet of deck area and 409 square feet of restroom facilities)
- h) *This condition was deleted*
- i) *This condition was deleted*
- j) *This condition was deleted*
- k) *This condition was deleted*
- l) Lookout Bar – 3,500 square feet
- m) Resort Hotel Entry Trellis – 250 square feet of roof area
- n) Greeting Kiosk –110 square feet

(REVISED PER CITY COUNCIL MINUTE ORDER ON MARCH 21, 2006)

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

(REVISED PER RESOLUTION NO. 2008-17 ON MARCH 4, 2008)

(REVISED PER RESOLUTION NO. 2008-31 ON MAY 6, 2008)

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- 50) A Square Footage Certification prepared by a registered surveyor shall be submitted to the Director of Planning, Building and Code Enforcement, prior to a framing inspection, indicating that the buildings, as identified in the previous condition, do not exceed the permitted square footages.
- 51) The maximum heights of the buildings approved for the project site shall not exceed the following criteria:

Hotel Building

- a. Maximum roof ridgeline 153 feet above sea level with a maximum roof ridgeline of 164-feet for the southern fire access and elevator override tower and 160-feet for the northern elevator override tower plus fireplace chimneys to the minimum height acceptable by the Uniform Building Code.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

- b. Eastern Elevation (Guest Room Wing) – Maximum Building Height as measured from the lowest adjacent finished grade for Level 1 (75.50') to the highest roof ridgeline (132.50') shall not exceed 57'; Level 2 (85') to the highest roof ridgeline (143') shall not exceed 58'; and Level 4 (104.5') to the highest roof ridgeline (152') shall not exceed 47.5'.

(REVISED PER RESOLUTION NO. 2008-17 ON MARCH 4, 2008)

- c. Northern Elevation – Maximum building height as measured from the lowest adjacent finished grade for Level 4 (104.5') of the hotel guest room wing at the far northeast corner to the highest roof ridgeline (142.50') shall not exceed 38'; Level 4 (104.5') of the hotel guest wing near the hotel motor courtyard to the highest roof ridgeline (152') shall not exceed 47.5'; Level 4 (105') at the hotel lobby to the highest roof ridgeline (144') shall not exceed 39'; and Level 4 (104.5') at the hotel banquet facilities to the highest roof ridgeline (142') shall not exceed 37.5'.

(REVISED PER RESOLUTION NO. 2008-17 ON MARCH 4, 2008)

- d. Southern Elevation - Maximum building height as measured from the lowest adjacent finished grade for Level 1 (75.50') of the hotel guest wing to the highest roof ridgeline (132.50') shall not exceed 57'; Level 1 (75.50') of the hotel guest wing to the highest roof ridgeline (143') shall not exceed 67.5'; Level 4 (85') at the hotel lobby to the highest roof ridgeline

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(144') shall not exceed 59'; and Level 2.4 (89') of the hotel banquet facilities to the highest roof ridgeline (142') shall not exceed 53'.

(REVISED PER RESOLUTION NO. 2008-17 ON MARCH 4, 2008)

- e. Western Elevation - Maximum building height as measured from the lowest adjacent finished grade for Level 4 (104.5") at the hotel banquet facilities to the highest roof ridgeline (142') shall not exceed 37.5'; Level 2 (85') of the hotel guest wing to the highest roof ridgeline (143') shall not exceed 58'; and Level 1(75.50') of the hotel guest wing to the highest roof ridgeline (132.50') shall not exceed 57'.

(REVISED PER RESOLUTION NO. 2008-17 ON MARCH 4, 2008)

Resort Villas – Maximum height shall not exceed 26 feet, as measured from the lowest adjacent finished grade to the top of the highest roof ridgeline for those villa structures located outside of the visual corridor of Vertical Zone 1. If any Villa structure is located within the visual corridor of Vertical Zone 1, as identified on the site plan, it shall not exceed a maximum height of 16 feet, as measured from the lowest adjacent finished grade to the top of the highest roof ridgeline. The following elevation benchmarks shall apply to each villa building:

BUILDING NUMBER	LOWEST ADJACENT FINISHED GRADE	MAXIMUM ROOF RIDGELINE	MAXIMUM HEIGHT
10	179.10'	195.60'	16'
11	162.50'	187.92'	25.42'
12	164.80'	190.22'	25.42'
13	166.20'	191.62'	25.42'
14	154.00'	179.92'	25.92'
15	149.20'	175.12'	25.92'
16	149.00'	174.42'	25.42'
17	152.30'	178.22'	25.92'
18	156.60'	182.52'	25.92'
19	161.50'	187.42'	25.92'

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

Casitas - Maximum height of the casitas located outside of the visual corridor of Vertical Zone 1 shall not exceed 26 feet as measured from the lowest adjacent finished grade. The Casitas located within the Coastal Specific Plan's Vertical Zone 1 shall not exceed 16 feet in height, as measured from the lowest adjacent finished grade to the top of the highest roof ridgeline. The following elevation benchmarks shall apply to each casita building:

BUILDING NUMBER	LOWEST ADJACENT FINISHED GRADE	MAXIMUM ROOF RIDGELINE	MAXIMUM HEIGHT
Western Casitas			
20	130.40'	156.35'	26'
21	133.20'	159.20'	26'
22	136.60'	162.60'	26'
23	128.50'	154.50'	26'
24	122.50'	148.50'	26'
25	119.50'	145.50'	26'
26	116.40'	142.40'	26'
27	111.30'	137.30'	26'
28	106.90'	132.90'	26'
Eastern Casitas			
30	108.50'	134.50'	26'
31	111.50'	137.50'	26'
32	113.80'	139.80'	26'
33	114.50'	130.50'	16'

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

Bungalows - Maximum height of the bungalows shall not exceed 26 feet as measured from the lowest adjacent finished grade to the top of the highest roof ridgeline. The following elevation benchmarks shall apply to each bungalow building:

BUILDING NUMBER	LOWEST ADJACENT FINISHED GRADE	MAXIMUM ROOF RIDGELINE	MAXIMUM HEIGHT
40	69.50'	95.50'	26'
41	66.50'	92.50'	26'
42	55.50'	81.50'	26'
43	59.50'	85.50'	26'
44	58.90'	84.90'	26'

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

Clubhouse – *This Condition was deleted*

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

Golf Maintenance Facility – *This Condition was deleted*

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

Fine Dining Restaurant – Maximum height of the fine dining restaurant shall not exceed 16-feet as measured from the lowest adjacent finished grade to the top of

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the highest roof ridgeline. The following elevation benchmarks shall apply to the fine dining restaurant building:

LOWEST ADJACENT FINISHED GRADE	MAXIMUM ROOF RIDGELINE	MAXIMUM HEIGHT
97.50'	118.50'	21'

**(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)
(REVISED PER RESOLUTION NO. 2008-17 ON MARCH 4, 2008)**

Lookout Bar – Maximum height of the Lookout Bar shall not exceed 19 feet as measured from the lowest adjacent finished grade to the top of the highest roof ridgeline. The following elevation benchmarks shall apply to the lookout bar building:

LOWEST ADJACENT FINISHED GRADE	MAXIMUM ROOF RIDGELINE	MAXIMUM HEIGHT
52.00'	71.00'	19'

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

Lower Pool Facility – Maximum height of the lower pool facility shall not exceed 16 feet, as measured from the lowest adjacent finished grade to the top of the highest roof ridgeline. The following elevation benchmarks shall apply to the lower pool facility building:

LOWEST ADJACENT FINISHED GRADE	MAXIMUM ROOF RIDGELINE	MAXIMUM HEIGHT
57.73'	73.73'	16'

**(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)
(REVISED PER RESOLUTION NO. 2008-17 ON MARCH 4, 2008)**

Spa and Fitness Facility – Maximum height of the spa building shall not exceed 32 feet and the fitness building shall not exceed 20.5 feet. Both structures shall be measured from the lowest adjacent finished grade to the top of the highest roof ridgeline. The following elevation benchmarks shall apply to the spa and fitness facility:

BUILDING	LOWEST ADJACENT FINISHED GRADE	MAXIMUM ROOF RIDGELINE	MAXIMUM HEIGHT
Spa Facility	48.50'	80.50'	32'
Fitness Facility	48.50'	69'	20.50'

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(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)
(REVISED PER RESOLUTION NO. 2008-17 ON MARCH 4, 2008)

Parking Structure – *This condition was deleted.*

(REVISED PER CITY COUNCIL MINUTE ORDER ON MARCH 21, 2006)

Accessory Structures – Maximum height of all accessory structures, including but not limited to pool cabanas, pool pavilions, trellises, and other stand alone accessory structures, shall not exceed 12 feet, as measured from the lowest adjacent finished grade to the top of the highest roof ridgeline.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

Flagpoles – three flagpoles shall be permitted adjacent to the main hotel building, as shown on the plans dated April 2009, at a maximum of 35-feet for one flagpole and 30-feet for two flag poles.

(REVISED PER RESOLUTION NO. 2009-24 ON MAY 4, 2009)

Architectural Features – architectural elements (cupolas, rotundas, and towers) may exceed the foregoing height limits with the prior written approval of the Director of Planning, Building and Code Enforcement, provided that such elements are generally consistent with the plans reviewed by the City Council.

Chimneys - Fireplace chimneys shall be limited to the minimum height acceptable by the Uniform Building Code

- 52) A Building Pad Certification shall be prepared by a licensed engineer and submitted to Director of Planning, Building and Code Enforcement prior to final inspection of grading activities. A Roof Ridgeline Certification, indicating the maximum height of each building, shall be prepared by a licensed engineer and submitted to Director of Planning, Building and Code Enforcement prior to the final framing certifications for each building.
- 53) In no event shall any structure, including architectural features, exceed the elevation height of Palos Verdes Drive South adjacent to the project site, as measured from the closest street curb adjacent to the structure in question and the ridgeline of the proposed building. This condition shall not apply to chimneys built to the minimum standards of the Uniform Building Code.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

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- 54) Glare resulting from sunlight reflecting off building surfaces and vehicles shall be mitigated by such measures as incorporating non-reflective building materials and paint colors into the design of the hotel architecture, as well as landscaping around the buildings and parking lots.
- 55) *This condition was deleted.*

(REVISED PER CITY COUNCIL MINUTE ORDER ON MARCH 21, 2006)

- 56) The applicant shall submit an Architectural Materials Board for review and approval by the Director of Planning, Building and Code Enforcement prior to issuance of building permits. The Materials Board shall identify, at the least, a sample of the proposed exterior building materials, such as roof tile materials and paint colors.
- 57) The hotel buildings, and ancillary structures, shall be finished in a muted earth-tone color, as deemed acceptable by the Director of Planning, Building and Code Enforcement during the review of the Materials Board.
- 58) The roof materials for all pitched roofs of the hotel buildings, including but not limited to the Villas, Casitas, Bungalows and all other ancillary structures, shall be tile, consisting of a muted color, as deemed acceptable by the Director of Planning, Building and Code Enforcement during the review of the Materials Board. The material for all flat roofs shall be a color that is compatible with the color of the tiles used on the pitched roofs throughout the resort hotel, as deemed acceptable by the Director of Planning, Building and Code Enforcement.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

- 59) All trash enclosure areas shall be designed with walls six (6) feet in height with the capability of accommodating recycling bins. The enclosures shall be consistent with the overall building design theme in color and material, and shall include self-closing / self-latching gates. The enclosures shall integrate a trellis type roof cover to visually screen and to reduce their visibility from all public rights-of-way and surrounding properties.
- 60) In accordance with the Commercial Recreational zoning district, the Resort Hotel Area shall not exceed a maximum lot coverage of thirty (30%) percent. For the purpose of this project, the definition of Lot Coverage shall adhere to the residential standards set forth in Section 17.02.040(A)(5) of the RPVMC.

- 61) In addition to the Coastal Setback line, as required by the RPVMC, all other building setbacks shall comply with the Commercial-Recreational zoning requirements, unless otherwise noted herein. A Setback Certification shall be prepared by a licensed engineer and submitted to Building and Safety prior to the framing inspection on each structure.

Public Amenities (Trails and Parks)

- 62) Prior to the issuance of any building or grading permits for the hotel, casitas, spa, villas, or clubhouse, the applicant shall submit and receive approval for a Public Amenities Plan which shall include specific design standards and placement for all trails, vista points, parking facilities, signs, and park areas, including the lower beach area, within the project site, as specified in the conditions herein. Additionally, the Plan shall include the size, materials and location of all public amenities and shall establish a regular maintenance schedule. City Staff shall conduct regular inspections of the public amenities. The Plan shall be reviewed and approved by the City Council at a duly noticed public hearing, as specified in the RPVMC.

(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)

- 63) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, or the operation of the 9-hole golf course, whichever occurs first, the applicant shall complete the construction of the following public access trails, public parks and other public amenities within the project site, except for the lower beach area (constructed after obtaining approvals from the Coastal Commission and the State Lands Commission) and the Lookout Bar, which shall be constructed within six (6) months after the issuance of the first Certificate of Occupancy for the resort hotel:
- a. Implementation of the Public Amenities Plan (such as benches, drinking fountains, viewing telescopes, bicycle racks, fences, signs, irrigation, and landscaping)
 - b. Public trails and trail signs to the satisfaction of the City (The Marineland Trail Segment (C5), Long Point Trail Segment (D4), Flowerfield Trail Segment (E2), and Café Trail Segment (J2) improvements).
 - c. Bicycle paths along southern lane of Palos Verdes Drive South adjacent to the project site.
 - d. The coastal public parking area within the resort hotel project area serving the coastal access points.
 - e. The expansion of the Fishing Access Parking Lot.
 - f. Improvements to the existing Fishing Access Parking lot.
 - g. Improvements to the Public Restroom facility at the Fishing Access site.

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- h. Public section of the Lower Pool Facility (consisting of outdoor tables and seating, men and women restroom and changing facilities, planter boxes with trees that provide shaded seating areas, access to the pool kitchen facility, outdoor showers and drinking water fountains).
- i. The 2.2 acre Bluff-Top park.
- j. Habitat Enhancement Area.
- k. The lower beach improvements, including the drainage channel and the importation of sand, shall not be constructed until the applicant can demonstrate that approvals have been obtained from the California Coastal Commission and the State Lands Commission.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 64) The City encourages incorporation of a marine theme into the project's public trails and park area.
- 65) The applicant shall upgrade the City's Fishing Access parking lot, fencing, signs, and landscaping to be consistent with the proposed 50 space parking lot expansion on the project site. Said improvements shall be reviewed and approved by the City, and shall be constructed prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 66) The applicant shall improve, to the satisfaction of the Director of Planning, Building and Code Enforcement and Public Works Director, the existing public restroom facility located at the City's Fishing Access to architecturally and aesthetically resemble the resort hotel buildings and related public amenities. Said improvements shall be reviewed and approved by the City, and shall be constructed prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 67) Prior to the issuance of a final Certificate of Occupancy for the main hotel building, or prior to August 1, 2009, or prior to recordation of Final Parcel Map No. 26073, whichever occurs first, the applicant shall dedicate easements over

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all public trails, habitat areas, vista points, and public amenities to the City of Rancho Palos Verdes.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 68) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the applicant shall dedicate the 2.2-acre Bluff-Top Park and 1.0 acre adjacent Fishing Access parking lot expansion (50 parking spaces) to the City. Maintenance of the trails, park grounds and landscaping, including but not limited to the landscaping located within the Fishing Access Parking Lot shall be maintained by the applicant as long as a hotel is operated on the property.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 69) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the applicant shall dedicate an easement to the City and construct two Public Vista Points along the Long Point Trail Segment (D4) in locations to be approved by the Director of Planning, Building, and Code Enforcement in the review of the Public Trails Plan. Habitat fencing, as well as habitat protection signs shall be posted in and around any vista point. The square footage of any Habitat Enhancement Area or the 50-foot transitional area that is used for the vista points shall be replaced at a ratio of 1:1.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 70) Prior to recordation of any final map or issuance of any building or grading permits, the applicant shall submit to the Director of Public Works a Public Trails Plan which identifies the on-site and off-site pedestrian and bicycle trails proposed for the project for review and approval by the City Council. The plan shall include details regarding trail surface, trail width, and trail signage. Furthermore, all trail segments shall be constructed with appropriate trail engineering techniques, as approved by the City's Director of Public Works, to avoid soil erosion and excessive compaction. The public trails, as identified in the city's Conceptual Trails Plan shall include: the Marineland Trail Segment (C5); the Long Point Trail Segment (D4); the Flower Field Trail Segment (E2); and the Café Trail Segment (J2). Furthermore, the beach access trail at the southeast corner of the project site shall also be kept open to the public and shall be maintained by the applicant.
- 71) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the applicant shall construct a class II bikeways along Palos Verdes Drive South, adjacent to the project site, to

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the satisfaction of the Director of Public Works. In the event any drainage grates are required, all grates shall be installed in a manner that is perpendicular to the direction of traffic to the satisfaction of the Director of Public Works.

**(REVISED PER RESOLUTION NO. 2005-107 ON OCTOBER 4, 2005)
(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)**

- 72) All project related trails, as identified in the City's Conceptual Trails Plan, shall be designed to the following minimum standards for trail widths, with easements extending an additional foot on either side of the trail:

- a. Pedestrian Only – 5-foot improved trail width within a 10-foot dedication area, except for the Bluff Top Trail. The Bluff Top Trail shall be a minimum of 4-feet wide, with 5-foot by 5-foot areas of refuge located along the trail at maximum intervals of 200 feet, within a 10-foot dedication area.
- b. Pedestrian/Equestrian – 6-foot improved trail width, 8-foot dedication
- c. Pedestrian/Bike – 6-foot improved trail width, 8-foot dedication
- d. Joint Pedestrian/Golf Cart – 10-foot improved trail, 12-foot dedication.

Standard golf cart-only paths, if constructed, shall be 6-feet wide, and require no easement dedication.

If a golf cart path is parallel, but not immediately abutting, a pedestrian path, a 2-foot minimum separation between the two paths shall be incorporated into the design of the paths in question and shall be maintained at all times thereafter. If a golf cart path is immediately abutting a pedestrian path without separation, the golf cart path shall be curbed.

All sidewalks and pathways throughout the project site shall be designed to comply with the minimum width standards set forth in the 2002 California Disabled Accessibility Guidebook.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

- 73) Where feasible, the applicant shall design, to the satisfaction of the Director of Planning, Building, and Code Enforcement, public trails, public restrooms and public park facilities that are in compliance with the American Disabilities Act requirements.
- 74) The Lower Pool Facility and the trail from the public parking lot nearest the hotel building to the Lower Pool Facility shall be constructed in compliance with all the standards established by the American with Disabilities Act (ADA).

- 75) Where feasible, the applicant shall design trails, to the satisfaction of the Director of Planning, Building and Code Enforcement, that do not exceed a maximum gradient of twenty (20%) percent.

Landscaping/Vegetation

- 76) Prior to issuance of any building or grading permits, the applicant shall record a conservation easement covering the Bluff-face/Habitat Enhancement Area. The conservation easement shall be recorded in favor of the City of Rancho Palos Verdes, and shall first be reviewed and accepted by the City Attorney.
- 77) The Habitat Enhancement Area shall extend from the Los Angeles County Fishing Access Parking Lot to the toe of the slope immediately north of the Lookout Bar. The Habitat Enhancement Area shall be thirty (30) feet wide, as measured from the inland limits of the coastal bluff scrub, as specified in the Mitigation Measures adopted by the City Council by Resolution No. 2002-34. All public trails in this portion of the site shall not encroach into the Habitat Enhancement Area.
- 78) A Landscape Plan shall be prepared by a qualified Landscape Architect in accordance with the standards set forth in RPVMC. The Landscape Plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement, a qualified Landscape Architect and a qualified botanist, hired by the City, prior to the issuance of any building or grading permits. The applicant shall establish a Trust Deposit account with the City prior to the submittal of Landscape Plans to cover all costs incurred by the City in conducting such review. During the Director's review, the Landscape Plan shall also be made available to the public, including but not limited to representatives from the California Native Plant Society, for review and input.

The Ornamental Landscape Plan shall comply with the water conservation concepts, the View Preservation Ordinance, the planting requirements, the irrigation system design criteria, and all other requirements of the RPVMC. Notwithstanding the proceeding, a tree or other foliage that is located adjacent to a structure that already impairs a view from a surrounding property may grow to the ridgeline of that structure so that the foliage screens the structure but does not increase the degree of view impairment. Except as specified in these conditions and except for trees adjacent to the Villas which will not be higher than the adjacent street curb of Palos Verdes Drive South or the maximum ridgeline of the adjacent Villa, whichever is lower, all other trees and foliage located within the City's Coastal Specific Plan's View Corridors (Catalina and Point Fermin) shall not exceed the permitted height limits of the Coastal Specific Plan's View Corridors or if not located in a View Corridor shall not exceed the height limit of

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the street curb at the Fishing Access Parking Lot, defined at 158-feet above sea level. In no event shall any foliage allowed pursuant to this condition impair visibility through a protected view corridor, as identified in the project EIR. The Plan shall identify the plant and seed sources and the required lead time that will be needed to implement the plan. A colorful plant palette shall be utilized in the design of the hotel landscaping where feasible, provided that impacts to native and protected vegetation will not occur. No invasive plant species shall be included in the plant palette, except for the following species which exist on-site or within the immediate area: Eucalyptus, Nerium Oleander, Olea Europa (olive tree), Phoenix (all species), Shinus Molle (California Pepper Tree), Shinus Terebinthifolius (Florida Pepper Tree).

The Habitat Enhancement Area, which serves as a plant buffer for the El Segundo Blue Butterfly and the Bluff Habitat shall consist of suitable, locally native plants. In addition, the 50-foot wide planting area inland of the Habitat Enhancement Area, as specified in the adopted Mitigation Monitoring Program (5.3-2c) attached as Exhibit "C" of Resolution No. 2002-34, shall also be planted with suitable, locally native plants and grasses. When available, it is recommended that seeds and plants for both areas come from local sources.

The applicant shall submit for review and approval by the Director of Planning, Building and Code Enforcement and a qualified biologist, at the expense of the applicant, a Habitat Enhancement Management Plan that shall ensure regular maintenance to prevent propagation of invasive plants into the Habitat Enhancement or buffer areas and that any invasive plants that do propagate into the Habitat Enhancement Area will be immediately removed. Said Management Plan shall be submitted for review and approval at the same time as the Landscape Plan.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

- 79) Landscaping proposed surrounding the Resort Villas shall be situated in a manner that, at maturity, visually screens the buildings from Palos Verdes Drive South, as well as visually separates the dense appearance of the Villas. Said landscaping shall also be permitted to grow beyond the maximum height of the Villas' roof ridgeline, only when such landscaping is able to screen the roof materials and not block a view corridor, as determined by the Director of Planning, Building and Code Enforcement at the time the Landscape Plan is reviewed.
- 80) Reasonable efforts shall be made by the applicant to preserve and replant existing mature trees, as deemed acceptable by the Director of Planning, Building and Code Enforcement. Any replanted trees, if invasive, shall not be located in the native plant area (30-foot Habitat Enhancement Area and 50-foot

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transition area). Any such replanted or retained trees shall be noted on the required landscape plans.

- 81) Where practical, landscaping shall screen the hotel building, ancillary structures, and the project's night lighting as seen from surrounding properties and/or public rights-of-way, as depicted on the Landscape Plan.

Lighting

- 82) The applicant shall prepare and submit a Lighting Plan for the Resort Hotel Area in compliance with the RPVMC. The Lighting Plan shall clearly show the location, height, number of lights, wattage and estimates of maximum illumination on site and spill/glare at property lines for all exterior circulation lighting, outdoor building lighting, trail lighting, parking lot lighting, landscape ambience lighting, and main entry sign lighting. The Lighting Plan shall be submitted for review and approval by the Director of Planning, Building and Code Enforcement prior to issuance of any building permit for the Resort Hotel Area. Furthermore, prior to the Director's review, the Lighting Plan shall be reviewed and approved by a qualified biologist for potential impacts to wildlife.
- 83) Parking and Security lighting shall be kept to minimum safety standards and shall conform to City requirements. Fixtures shall be shielded so that only the subject property is illuminated; there shall be no spillover onto residential properties or halo into the night sky. A trial period of ninety (90) days from the installation of the project exterior lighting for the hotel, spa, west casitas, east casitas, villas, clubhouse, the 9-hole golf course, and surface parking lots shall be assessed for potential impacts to the surrounding environment. At the end of the ninety (90) day period, the Director of Planning, Building and Code Enforcement may require additional screening or reduction in the intensity or number of lights which are determined to be excessively bright or otherwise create adverse impacts.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

- 84) *This condition was deleted.*

(REVISED PER CITY COUNCIL MINUTE ORDER ON MARCH 21, 2006)

- 85) No golf course lighting shall be allowed other than safety lighting for the use of trails through the 9-hole golf course areas and lighting for the clubhouse and adjacent parking lot.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

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Signs

- 86) Prior to the issuance of any building permit, a Uniform Sign Program shall be submitted to the Planning Department for review and approval by the City Council, at a duly noticed public hearing. The Sign Program shall include all exterior signs including resort identification signs, spa identification signs, golf course signs including routing signs and any warning signs, public safety signs for trails and park areas, educational signs about habitat or wildlife and any other proposed project signs. Furthermore, the Sign Program shall indicate the colors, materials, locations and heights of all proposed signs. Said signs shall be installed Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)
(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

Utilities/Mechanical Equipment

- 87) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to December 31, 2009, whichever occurs first, all utilities exclusively serving the project site shall be placed underground including cable television, telephone, electrical, gas and water. All appropriate permits shall be obtained for any such installation. Cable television, if utilized, shall connect to the nearest trunk line at the applicant's expense.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 88) Prior to December 31, 2009 all existing above ground utilities serving the project site within the public right-of-way adjacent to the property frontage of the project site shall be placed underground by the applicant. In addition, the two (2) power poles on either side of Palos Verdes Drive South, and the lines thereon, shall be placed underground.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-24 ON MAY 4, 2009)

- 89) No above ground utility structures cabinets, pipes, or valves shall be constructed within the public rights-of-way without prior approval of the Director of Public Works.
- 90) Mechanical equipment, vents or ducts shall not be placed on roofs unless the applicant demonstrates, to the satisfaction of the Director of Planning, Building

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and Code Enforcement, that there is no feasible way to place the equipment elsewhere. In the event that roof mounted equipment is the only feasible method, all such equipment shall be screened and/or covered to the satisfaction of the Director of Planning, Building, and Code Enforcement so as to reduce their visibility from adjacent properties and the public rights-of-way. Any necessary screening or covering shall be architecturally harmonious with the materials and colors of the buildings, and shall not increase any overall allowed building height permitted by this approval. This condition shall apply to all buildings in the Resort Hotel Area, including but not limited to, the hotel, bungalows, casitas, villas, and spa.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

- 91) Use of satellite dish antenna(e) or any other antennae shall be controlled by the provisions set forth in the RPVMC. Centralized antennae shall be used rather than individual antennae for each room, building or accommodation.
- 92) Mechanical equipment, regardless of its location, shall be housed in enclosures designed to attenuate noise to a level of 65 dBA at the project site's property lines. Mechanical equipment for food service shall incorporate filtration systems to eliminate exhaust odors.
- 93) All hardscape surfaces, such as the parking area and walkways, shall be properly maintained and kept clear of trash and debris. The hours of maintenance of the project grounds shall be restricted to Mondays through Fridays from 7:00 a.m. to 5:00 p.m., and on Saturdays from 9:00 a.m. to 4:00 p.m. Said maintenance activities shall be prohibited on Sundays and National holidays.
- 94) The storage of all goods, wares, merchandise, produce, janitorial supplies and other commodities shall be permanently housed in entirely enclosed structures, except when in transport.

Fences, Walls, and Gates

- 95) No freestanding fences, walls, or hedges shall be allowed, unless a Uniform Fencing Plan is reviewed and approved by the Director of Planning, Building, and Code Enforcement, except as otherwise required by these conditions or the mitigation measures set forth in the Mitigation Monitoring Plan attached as Exhibit "C" to Resolution No. 2002-34. Said Fencing Plan shall be reviewed and approved prior to issuance of any building permit and shall be installed prior to issuance of a final Certificate of Occupancy for the main hotel building or by

August 1, 2009 or prior to use of the Resort by the public, including paying guests, whichever occurs first. No entry gates shall be permitted.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 96) The design of the fencing required along the bluff top park, bluff top trails, and the Habitat Preserve Areas shall be included in the Public Amenities Plan, as required herein. Said fencing shall be modeled to generally resemble the wood / cable fence installed in City parks, such as Shoreline Park and Ocean Trails.
- 97) All pools and spas shall be enclosed with a minimum 5' high fence, with a self-closing device and a self-latching device located no closer than 4' above the ground.
- 98) All fencing surrounding the Lower Pool Facility, including pool and spa security fencing, shall be constructed in a manner that meets the minimum fence standards for pool safety, as noted in the above condition, and shall minimize a view impairment of the coastline as determined by the Director of Planning, Building and Code Enforcement.
- 99) No safety netting for the 9-hole golf course shall be permitted.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

- 100) Any on-site fencing along Palos Verdes Drive South shall be no higher than two (2) feet in height and shall be modeled to generally resemble the fencing installed along Palos Verdes Drive West for the Ocean Front Estates project. The landscaping on the project side of Palos Verdes Drive South in this general area, as determined by the Planning Director, shall be limited to 1-foot in height above the closest street curb adjacent to the project site.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

Source Reduction and Recycling

- 101) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August November 1, 2009, whichever occurs first, the applicant shall prepare and submit to the Director of Public Works for review and approval a comprehensive Integrated Waste Management Plan that addresses source reduction, reuse and recycling. The Plan shall include a description of the materials that will be generated, and measures to reduce, reuse and recycle materials, including, but not limited to, beverage containers, food waste, office and guest room waste. The Plan shall also incorporate grass cycling,

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composting, mulching and xeriscaping in ornamental landscaped areas. Grass cycling, composting, or mulching shall not be used in the Habitat Areas. It is the City's intention for the project to meet Local and State required diversion goals in effect at the time of operation. The specifics of the Plan shall be addressed by the applicant at the time of review by the Director of Public Works.

**(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)**

- 102) Prior to issuance of any building or grading permits, an approved Construction and Demolition Materials Management Plan (CDMMP or the Plan) shall be prepared and submitted to the Director of Public Works for approval. The CDMMP shall include all deconstruction, new construction, and alterations/additions. The CDMMP shall document how the Applicant will divert 85% of the existing on-site asphalt, base and concrete, through reuse on-site or processing at an off-site facility for reuse. The Plan shall address the parking lots, concrete walkways, and other underground concrete structures. The Plan shall also identify measures to reuse or recycle building materials, including wood, metal, and concrete block to meet the City's diversion goal requirements as established by the State Integrated Waste Management Act (AB 939). In no case shall the Plan propose to recycle less than the state mandated goals as they may be amended from time to time.
- 103) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August November 1, 2009, whichever occurs first, a Construction and Demolition Materials Disposition Summary (Summary) shall be submitted to the Director of Public Works upon completion of deconstruction and construction. The Summary shall indicate actual recycling activities and compliance with the diversion requirement, based on weight tags or other sufficient documentation.

**(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)**

- 104) Where possible, the site design shall incorporate for solid waste minimization, the use of recycled building materials and the re-use of on-site demolition debris.
- 105) The project site design shall incorporate areas for collection of solid waste with adequate space for separate collection of recyclables.

Street and Parking Improvements

- 106) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, emergency vehicular access shall

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be installed at the project site, specifically to the hotel, villas, casitas, and the golf club house and golf practice facilities. A Plan identifying such emergency access shall be submitted to the Fire Department and the Director of Public Works for review and approval prior to issuance of any building permit.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)
(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 107) Prior to issuance of any building permit, the applicant shall prepare an Emergency Evacuation Plan for review and approval by the Director of Planning, Building and Code Enforcement. Said plan shall comply with the City's SEMS Multihazard Functional Plan.
- 108) The applicant shall construct and retain no fewer than 875 parking spaces on the resort property, of which 50 parking spaces shall be dedicated for public use, at no cost to the users of the public parking lot, during City Park Hours, which are from one hour before sunrise until one after sunset. The 50 dedicated public parking spaces on the resort hotel property nearest to the hotel building may be used by the hotel to accommodate its overflow valet parking needs when the City parks are closed for those wishing to use hotel amenities but who are not staying overnight. Additionally, these 50 public parking spaces may be used by the operator of the resort hotel for special events during City park hours, provided that a Special Use Permit is obtained from the Planning Department, which shall be processed pursuant to the provisions of the RPVMC. The applicant shall install signs in the public parking lot nearest to the hotel building stating that additional public parking is available at the Fishing Access parking lot.

The applicant shall also expand the Fishing Access Parking Lot by constructing 50 additional public parking spaces that shall be deeded to the City as a public parking area.

Vehicular ingress and egress to the property and the parking lots, including the public parking lot, shall be via a "greeting kiosk", as shown on the site plan approved by the City Council on December 5, 2006. The operation of the "greeting kiosk" shall not result in the refusal or discouragement of the use of the free public parking within the designated public parking lot during City Park Hours, as specified herein. Signs shall be posted along the entry driveway to the hotel, between Palos Verdes Drive South and the "greeting kiosk" indicating that public parking is available during City Park Hours. The hotel operator shall provide the Planning Director with annual reports (January 1 - December 31) specifying the daily use of the public parking so as to ensure that the operation of the "greeting kiosk" is not impeding public access to the designated public parking lot. The operation of the "greeting kiosk," as it relates to vehicular

access to the designated public parking lot, shall be monitored by the Planning Director, who shall have the ability to modify the operation of the "greeting kiosk" to ensure that public access to the designated public parking lot occurs during City Park Hours.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

- 109) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, an appropriate public access easement in favor of the City across the resort entry drive from Palos Verdes Drive South to the designated public parking area adjacent to the main hotel building, in a form acceptable to the City Attorney, shall be recorded.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 110) A Parking Lot Plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement prior to issuance of project-related grading permits. The Parking Lot Plan shall be developed in conformance with the parking space dimensions and parking lot standards set forth in RPVMC or allowed in this condition of approval, and shall include the location of all light standards, planter boxes, directional signs and arrows. No more than 20% of the total parking spaces shall be in the form of compact spaces. The filing fee for the review of the Parking Plan shall be in accordance to the City's Fee Schedule as adopted by Resolution by the City Council.

Valet parking shall be permitted as part of the hotel operation provided it is operated and managed 24-hours a day by the hotel operators. No more than 203 (23%) of the required 875 parking spaces shall be designated as valet parking spaces. Each valet parking stall shall be a minimum of 8½' wide by 18' deep. Tandem parking stalls for use by a maximum of three vehicles, shall be permitted for the designated valet parking lot. All valet employees who operate a motor vehicle shall have in their possession a valid driver's license.

(REVISED PER RESOLUTION NO. 2005-107 ON OCTOBER 4, 2005)

(REVISED PER CITY COUNCIL MINUTE ORDER ON MARCH 21, 2006)

- 111) Prior to the recordation of any final map, or issuance of any grading permit, the applicant shall submit security, in a form reasonably acceptable to the City, to cover any damage caused to existing public roadways during construction. The amount of said security shall be determined by the Director of Public Works.
- 112) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August November 1, 2009, whichever occurs first, the applicant shall

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replace all damaged curbs, gutters, and sidewalks along the project's Palos Verdes Drive South frontage, as determined by the Director of Public Works. Prior to approval of the Street Improvement Plan, the applicant shall post a security bond in an amount sufficient to ensure completion of such improvements, including, without limitation, the costs for labor and material. The amount of such security shall be determined by the Director of Public Works.

**(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)**

- 113) All proposed driveways shall be designed in substantially the same alignment as shown on the approved site plans, subject to final design review and approval by the Los Angeles County Fire Department and the Director of Public Works.
- 114) Any on-site raised and landscaped medians and textured surfaces shall be designed to standards approved by the Director of Public Works.
- 115) Handicapped access ramps shall be installed and or retrofitted in accordance with the current standards established by the Americans with Disabilities Act. Access ramps shall be provided at all intersections and driveways.
- 116) If excavation is required in any public roadway, the roadway shall be resurfaced with an asphalt overlay to the adjacent traffic lane line to the satisfaction of the Director of Public Works.
- 117) Prior to commencing any excavation within the public rights-of-way, the applicant shall obtain all necessary permits from the Director Public Works.
- 118) Prior to the recordation of a final map or issuance of any building or grading permits, whichever comes first, the applicant shall construct or enter into an agreement and post security guaranteeing the construction of the following public and/or private improvements in conformance with the applicable City Standards: street improvements, medians, sidewalks, drive approaches, bikeways, trails, signing, striping, storm drain facilities, sub-drain facilities, landscape and irrigation improvements (medians, slopes, parks, and public areas including parkways), sewer, domestic water, monumentation, traffic signal systems, trails, and the undergrounding of existing and proposed utility lines. If security is posted it shall be in an amount sufficient to ensure completion of such improvements, including, without limitation, the costs for labor and materials. The amount of such security shall be determined by the Director of Public Works. The security referred to in this condition may be grouped into one of the following categories, provided that all of the items are included within a category: 1) Landscape and

Irrigation; 2) On-site Street Improvement Plans and Parking, and 3) Palos Verdes Drive South Improvements.

The construction of the bus shelter at the southeast corner of the entry driveway and Palos Verdes Drive South shall be constructed by the applicant by June 1, 2010. The applicant shall post a security cash deposit with the City in the amount of \$10,000 prior to the issuance of the Certificate of Occupancy for the main hotel building or August 1, 2009, whichever occurs first.

(REVISED PER RESOLUTION NO. 2009-24 ON MAY 4, 2009)

- 119) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the applicant shall complete the street improvements to Palos Verdes Drive South as identified in the Mitigation Measures set forth in the Mitigation Monitoring Plan attached as Exhibit "C" to Resolution No. 2002-34. The improvements shall include the following: Installation of a new traffic signal on Palos Verdes Drive South at the project entrance, a right turn lane for south-bound traffic to facilitate ingress into the project and a lengthened left turn lane for north-bound traffic to facilitate ingress into the project.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 120) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the applicant shall improve with landscaping and irrigation the median and parkway along Palos Verdes Drive South, in the area generally located in front of the project site's entrance driveway, including the portion of the median that is to be improved with an expanded left-turn pocket, up to the eastern most driveway of the Fishing Access Parking Lot. If available, said landscaping shall consist of non-invasive plant species, except the permitted invasive species listed in Condition No. 78, as deemed acceptable by the Director of Public Works.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 121) The design of all interior streets shall be subject to review and approval by the Director of Public Works.
- 122) The applicant shall dedicate vehicular access rights to Palos Verdes Drive South to the City, except as provided for private driveways and emergency access as shown on the site plan.

- 123) Prior to the approval of Street Improvement Plans, the applicant shall submit detailed specifications for the structural pavement section for all streets, both on-site and off-site including parking lots, to the Director of Public Works for review and approval.

Traffic

- 124) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August November 1, 2009, whichever occurs first, the applicant shall pay the City of Los Angeles for its fair share of the following improvements to the intersection of Western Avenue (NS) at 25th Street (EW): Provide east leg of 25th Street with one left turn lane, two through lanes, and one right turn lane.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)

- 125) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August November 1, 2009, whichever occurs first, the applicant shall pay the City of Rolling Hills Estates for its fair share of the following improvements to the intersection of Hawthorne Boulevard (NS) at Palos Verdes Drive North (EW): Provide west leg with one left turn lane, one shared left and through lane, one through lane, and one right turn lane.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)

- 126) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August November 1, 2009, whichever occurs first, the applicant shall pay The City of Rolling Hills Estates for its fair share of the following improvements to the intersection of Silver Spur Road (NS) at Hawthorne Boulevard (EW): Provide north leg with one left turn lane, two through lanes, and one right turn lane; and re-stripe south leg with two left turn lanes, one through lane, and one right turn lane.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)

- 127) Prior to issuance of building or grading permits, the applicant shall provide security, in a form reasonably acceptable to the Director of Public Works, in the amount of \$100,000 to cover the cost of mitigating any impacts caused by this project that would require the installation of any new traffic signal that may be required along Hawthorne Boulevard, Palos Verdes Drive South, or Palos Verdes Drive West. This security will be held by the City in accordance with the

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provisions of Government Code Section 66001 for a minimum five-year period, from the date of the main hotel building's Certificate of Occupancy.

- 128) Upon the opening of the resort hotel or 9-hole golf course, whichever occurs first, the hotel operators shall implement a shuttle service between the Long Point Resort Hotel and the Ocean Trails Golf Course. The use of low emissions vehicles shall be used for the shuttles. The hotel operators shall design the schedule of the shuttles so as to encourage and maximize its use by hotel guests.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

- 129) The applicant shall comply with all applicable provisions of the City's Transportation Demand Management and Trip Reduction Ordinance as set forth in RPVMC Section 10.28.

GRADING PERMIT NO. 2229

Grading

- 130) The following maximum quantities and depths of grading are approved for the Resort Hotel Area, as shown on the grading plan reviewed and approved by the City Council at its December 5, 2006 meeting:
- a. Maximum Total Grading (Cut and Fill): 784,550 cubic yards.
 - b. Maximum Cut: 411,889 cubic yards (392,275 cubic yards with 5% shrinkage).
 - c. Maximum Fill: 392,275 cubic yards.
 - d. Maximum Depth of Cut: 31 feet (located in the area of the villas).
 - e. Maximum Depth of Fill: 21 feet (located in the area of the more inland row of Western Casitas).

Prior to issuance of a grading permit by Building and Safety, the grading plan reviewed by the City Council on December 5, 2006 shall be revised so that the berm located to the east of Golf Hole No. 8 is reduced by a minimum of 3-feet over the entire length of the berm, as measured from the eastern side of the berm, but notwithstanding the foregoing, shall not be reduced below 3-feet in height over its entire length. The 14-foot tall landscape mound be deleted from the grading plan.

Any modifications resulting in additional grading in excess of the above amounts shall require approval of an amendment to the grading permit by the City Council. This is a balanced grading project. No import or export of earth shall be

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permitted, except as provided in Condition No. 155, and except for fine grading materials, such as select fill.

The importation of sand for the lower beach improvements shall not exceed 1,500 cubic yards, as depicted on the site plan reviewed and approved by the City Council on October 7, 2008. The loss of sand resulting from extreme weather conditions, such as storm surges, or other unique circumstances, shall be replenished on a case-by-case basis with the approval of a Grading Permit pursuant to criteria set forth in Section of 17.48.020 of the RPVMC. In cases where more than 1,000 cubic yards of sand shall be replenished, said grading application shall be reviewed by the City Council rather than the Planning Council.

Prior to the final inspection of the precise grading, the applicant shall provide the Building Official with a certified as-built grading plan prepared and wet-stamped by a licensed engineer. The as-built grading plan shall identify all revisions to the Council approved grading plan.

**(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)
(REVISED PER RESOLUTION NO. 2008-95 ON OCTOBER 7, 2008)**

- 131) All recommendations made by the City Geologist, the City Engineer, and the Building and Safety Division during the ongoing review of the project shall be incorporated into the design and construction of the project.
- 132) All recommendations made by the project's geologist, as modified by comments from the City's reviewers, shall be incorporated into the design and construction of the project.
- 133) If applicable, as determined by the City Geologist, prior to the issuance of grading permits, a bond, cash deposit, or combination thereof, shall be posted to cover costs for any geologic hazard abatement in an amount to be determined by the Director of Public Works.
- 134) Prior to issuance of a grading permit by Building and Safety, the applicant shall submit to the City a Certificate of Insurance demonstrating that the applicant has obtained a general liability insurance policy in an amount not less than five million dollars per occurrence and in the aggregate to cover awards for any death, injury, loss or damage, arising out of the grading or construction of this project by the applicant. Said insurance policy must be issued by an insurer that is authorized to do business in the State of California with a minimum rating of A-VII by Best's Insurance Guide or a rating of at least A by Standard & Poors. Such insurance shall name the City and the members of its City Council, boards,

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committees, commissions, officers, employees, servants, attorneys, volunteers and agents serving as its independent contractors in the role of City officials, as additional insureds. A copy of this endorsement shall be provided to the City. Said insurance shall be maintained in effect for a minimum period of five (5) years following the final inspection and approval of said work by the City and shall not be canceled or reduced during the grading or construction work without providing at least thirty (30) days prior written notice to the City.

- 135) All on-site public improvements shown on the approved Public Amenities Plan including necessary irrigation, landscaping, and support facilities shall be bonded for, or shall have a cash deposit or other City-approved security posted for, in bonds or amounts to be deemed satisfactory by the Director of Public Works.

Prior to recordation of the Final Map or prior to issuance of grading permits, whichever occurs first, a bond, cash deposit, or other City-approved security, shall be posted to cover the costs of grading in an amount to be determined by the Director of Public Works. The bond, cash deposit, or other City-approved security, at a minimum, shall be sufficient to pay for the cost of restoring the project site to an acceptable condition, as determined by the Building Official and the Director of Public Works, in the event that the project is not completed and shall include, but not be limited to, stabilizing and hydro-seeding all slopes, completing all retaining walls that are required to maintain the slopes, installing erosion control improvements, and filling in grade depressions or holes.

(REVISED PER RESOLUTION NO. 2006-92 ON DECEMBER 5, 2006)

- 136) Prior to issuance of a grading permit, the applicant shall provide the Director of Planning, Building and Code Enforcement a plan that demonstrates how dust generated by grading activities will be mitigated so as to comply with the South Coast Air Quality Management District Rule 403 and the City's Municipal Code requirements which require watering for the control of dust.
- 137) Prior to the issuance of a grading permit, the applicant shall prepare a plan indicating, to scale, clear sight triangles, which shall be maintained at each roadway and driveway intersection. No objects, signs, fences, walls, vegetation, or other landscaping shall be allowed within these triangles in excess of three feet in height.
- 138) Prior to the issuance of a grading permit, the following improvements shall be designed in a manner meeting the approval of the Director of Public Works: 1) all provisions for surface drainage; 2) all necessary storm drains facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and 3) all water quality related improvements. Where determined

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necessary by the Director of Public Works, associated public street and utility easements shall be dedicated to the City.

- 139) Prior to the issuance of any precise grading permit, the applicant shall submit to the Director of Public Works, a plan for the placement of traffic signing, pavement delineation, and other traffic control devices.
- 140) Prior to the issuance of grading permits, the applicant shall submit to the Director of Public Works, for his review and approval, a construction traffic management plan. Said plan shall include the proposed routes to and from the project site for all deliveries of equipment, materials, and supplies, and shall set forth the parking plan for construction employees. All construction related parking must be accommodated on-site. No construction related parking shall be permitted off-site.
- 141) If applicable, as determined by the City Geologist, prior to the issuance of a grading permit, all geologic hazards associated with this proposed development shall be eliminated, or the City Geologist shall designate a restricted use area on the Final Parcel Map where the erection of buildings or other structures shall be prohibited.
- 142) Prior to the issuance of building permits, an independent Geology and/or Soils Engineer's report on the expansive properties of soils on all building sites shall be submitted for review and approval by the City Geologist in conformance with the accepted City Practice.
- 143) Prior to the issuance of a building permit, an as-built geological report shall be submitted for structures founded on bedrock, and an as-built soils and compaction report shall be submitted for structures founded on fill as well as for all engineered fill areas.
- 144) Prior to the issuance of a grading permit, the applicant's project geologist shall review and approve the final plans and specifications and shall stamp and sign such plans and specifications.
- 145) Prior to the issuance of a grading permit, a grading plan review and geologic report, complete with geologic map, shall be submitted for review and approval by the City's Geotechnical Engineer.
- 146) Except as specifically authorized by these approvals, foundations shall be set back from the Coastal Setback Line in accordance with the RPVMC and shall extend to such a depth as to be unaffected by any creep-prone surficial soil

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- 147) All grading shall be monitored by a licensed engineering geologist and/or soils engineer in accordance with the applicable provisions of the RPVMC and the recommendations of the City Engineer. Written reports, summarizing grading activities, shall be submitted on a weekly basis to the Director of Public Works and the Director of Planning, Building, and Code Enforcement.
- 148) The project shall comply with all appropriate provisions of the City's Grading Ordinance, unless otherwise approved in these conditions of approval.
- 149) Grading activity on site shall occur in accordance with all applicable City safety standards.
- 150) Prior to final grading inspection by Building and Safety, the graded slopes shall be properly planted and maintained in accordance with the approved landscaping plan. Plant materials shall generally include significant low ground cover to impede surface water flows, and shall be non-invasive, except the permitted invasive species listed in Condition No. 78
- 151) Prior to final grading inspection by Building and Safety, all manufactured slopes shall be contour-graded to achieve as natural an appearance as is feasible.
- 152) Any water features (lakes, ponds, fountains, and etc.) associated with the 9-hole golf course, excluding the bioswales used in the water quality treatment train, shall be lined to prevent percolation of water into the soil. Designs for all water features shall be included on the grading plans submitted for review by the City's Building Official and Geotechnical Engineer.

(REVISED PER RESOLUTION NO. 2006-17 ON MARCH 21, 2006)

- 153) The City's Building Official, Geotechnical Engineer and Biologist shall determine in their review of the grading plans whether water features associated with the water quality treatment train, such as the bioswales or catch basins, shall be lined to prevent water percolation into the soil, and potential impacts to nearby sensitive habitat areas.
- 154) The proposed swimming pool and spa for the Lower Pool Facility shall be double lined and shall contain a leak detection system, subject to review and approval by the City's Building Official.

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- 155) Should the project require removal of earth, rock or other material from the site, the applicant shall first obtain City approval in the form of a revised Conditional Use Permit and Grading Permit application. Said review shall evaluate potential impacts to the surrounding environment associated with export or import. If the revised grading impacts are found to be greater than identified in the Certified EIR that cannot be mitigated to an insignificant level, a Supplemental EIR shall be prepared and reviewed by the City, at the expense of the applicant. Furthermore, the applicant shall prepare and submit a hauling plan to the Public Works Department for review and approval prior to issuance of grading permits.
- 156) The use of a rock crusher on-site shall be conducted in accordance with the project's mitigation measures and shall be contained to the area analyzed in the project's Environmental Impact Report.
- 157) During the operation of the rock crusher, a qualified biologist shall monitor noise levels generated by the activity for potential impacts to nearby wildlife. Said specialist shall be hired by the City at the cost of the applicant, in the form of a trust deposit account provided by the applicant.
- 158) Retaining walls shall be limited in height as identified on the grading plans that are reviewed and approved by the City. Any retaining walls exceeding the permitted heights shall require the processing of a revised grading permit for review and approval by the Director of Planning, Building and Code Enforcement.

Drainage

- 159) The irrigation system and area drains proposed shall be reviewed and approved by the City's Geotechnical Engineer and Director of Public Works.
- 160) A report shall be prepared demonstrating that the grading, in conjunction with the drainage improvements, including applicable swales, channels, street flows, catch basins, will protect all building pads from design storms, as approved by the Director of Public Works.
- 161) All drainage swales and any other at-grade drainage facilities, including gunite, shall be of an earth tone color, as deemed necessary by the Director of Building Planning and Code Enforcement.
- 162) Prior to issuance of any building or grading permits, the applicant shall submit a Local Grading and Drainage Plan identifying how drainage will be directed away from the bluff top, natural drainage courses and open channels to prevent erosion and to protect sensitive plant habitat on the bluff face. Said Plan shall be reviewed by the Director of Public Works and the Director of Planning, Building

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and Code Enforcement. Said review shall also analyze whether potential impacts to the bluff top or bluff face may be caused by the proposed drainage concept.

- 163) Drainage plans and necessary supporting documents that comply with the following requirements shall be submitted for review and approval by the Director of Public Works prior to the issuance of grading permits: A) drainage facilities that protect against design storms shall be provided to the satisfaction of the Director of Public Works and any drainage easements for piping required by the Director of Public Works shall be dedicated to the City on the Final Map; B) sheet overflow and ponding shall be eliminated or the floors of buildings with no openings in the foundation walls shall be elevated to at least twelve inches above the finished pad grade; C) drainage facilities shall be provided so as to protect the property from high velocity scouring action; and D) contributory drainage from adjoining properties shall be addressed so as to prevent damage to the project site and any improvements to be located thereon.
- 164) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the applicant shall upgrade the drainage facility that currently is located on the Fisherman's access property and construct a pipe that will convey this water to the proposed drainage system terminating at Outlet No. 2 to the satisfaction of the Director of Public Works.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 165) Prior to the issuance of any grading or building permit, the applicant shall prepare and submit a Master Drainage Plan for review and approval by the Director of Public Works. The Plan shall demonstrate adequate storm protection from the design storm, under existing conditions, as well as after the construction of future drainage improvements by the City along Palos Verdes Drive South immediately abutting the project site.
- 166) Prior to the issuance of any grading permit, the applicant shall demonstrate to the satisfaction of the Director of Public Works that the design storm can be conveyed through the site without conveying the water in a pipe and without severely damaging the integrity of the Urban Stormwater Mitigation Plan (USMP), especially the bioswale system. If such integrity cannot be demonstrated, the applicant shall redesign the USMP to the satisfaction of the Director of Public Works, which may require offsite flows to be diverted into a piped system and carried through the site. If the piped system is used, the applicant shall dedicate a drainage easement to the City to the satisfaction of the Director of Public Works.

- 167) Prior to the issuance of a grading permit that proposes to convey off-site drainage through the subject property, the applicant shall execute an agreement with the City that is satisfactory to the City Attorney that defending, indemnifying and holding the City, members of its City Council, boards, committees, commissions, officers, employees, servants, attorneys, volunteers, and agents serving as independent contractors in the role of city or agency officials, (collectively, "Indemnitees") harmless from any damage that may occur to the subject property or any improvements, persons or personal property located thereon due to the conveyance of offsite design storm flows through the site.

NPDES

- 168) Prior to acceptance of the storm drain system, all catch basins and public access points that cross or abut an open channel, shall be marked with a water quality message in accordance with City Standards.
- 169) Prior to the issuance of any grading or building permits, the applicant shall furnish to the Director of Public Works, for review and approval, the project's Water Quality Management Plan and Maintenance Agreement outlining the post-construction Best Management Practices (BMPs).
- 170) Prior to issuance of any building or grading permits, the applicant shall submit for review and approval by the Director of Public Works a Storm Water Pollution Prevention Plan (SWPPP) describing the construction phase Best Management Practices (BMPs) to ensure compliance with the NPDES General Permit for Storm Water Discharges associated with construction activity (Grading Permit), No. CA s000002.
- 171) Prior to issuance of any building or grading permit, the applicant shall submit to the Director of Public Works a Water Quality Management Plan ("Plan"), for review and approval by the City Council at a duly noticed public hearing. The Water Quality Management Plan, which shall remain in effect for the life of the project, shall identify the Best Management Practices (BMPs) used to minimize and reduce project storm water and runoff pollutants. The Plan shall include project water quality parameters that meet the objectives of the California Ocean Plan for non-point discharges in receiving water bodies. Additionally, all storm water treatment systems shall be designed in accordance with the Los Angeles County Department of Public Works "Manual for the Standard Urban Stormwater Mitigation Plan(SUSMP)". The specific BMP design criteria in the SUSMP (May 2002), as developed by the U.S. EPA and American Society of Civil Engineers, shall be followed.

The Plan shall contain the operation, maintenance and monitoring procedures, including Fire and Argentine ant management. The Plan shall indicate potential impacts of the storm water treatment train to surrounding plants and wildlife. The monitoring of the treatment train shall include the bioswales and catch basins for the accumulation of pollutants through sampling and testing of both soil material and vegetation. The Plan shall indicate the frequency of the required monitoring and the frequency of the removal and replacement of plant material and soil from the bioswale. Said report shall be reviewed and approved by the City's Biologist and/or Chemists. Said monitoring shall be required for the life of the project.

All costs associated with the review, installation and maintenance of the Plan and project related BMPs shall be the responsibility of the applicant. If the plan requires construction of improvements, such plans shall be reviewed and approved by the Director of Public Works.

- 172) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August November 1, 2009, whichever occurs first, the Water Quality Management Plan Maintenance Agreement, outlining the post-construction Best Management Practices, shall be recorded with the Los Angeles County Recorders Office.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)
(REVISED PER RESOLUTION NO. 2009-__ ON AUGUST 18, 2009)

- 173) Prior to issuance of any building or grading permits, the applicant shall file any required documents, including the Notice of Intent, and obtain all required permits from the California Regional Water Quality Control Board.
- 174) Prior to issuance of any building or grading permits, the applicant shall submit for review and approval by the Director of Public Works an Erosion Control Plan. Said Plan shall be designed in conformance with the City standards and the requirements of the Regional Water Quality Control Board.
- 175) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the applicant shall implement the project in full compliance with the standard urban storm water mitigation plan adopted by the Regional Water Quality Control Board.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 176) Prior to the City Council's review of the Water Quality Management Plan, the City's Geotechnical Engineer shall review and approve the Plan. In the event the City's Geotechnical Engineer determines that additional improvements need to be constructed, the applicant shall revise the Plan accordingly.

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Sewers

- 177) Prior to issuance of any building or grading permits, the applicant shall prepare sewer plans in accordance with the Countywide Sewer Maintenance District. The applicant shall be responsible for the transfer of sewer facilities to the Countywide Sewer Maintenance District for maintenance.
- 178) A sewer improvement plan shall be prepared as required by the Director of Public Works and the County of Los Angeles.
- 179) Prior to issuance of building or grading permits, the applicant shall submit to the Director of Public Works, a written statement from the County Sanitation District accepting any new facility design and/or any system upgrades with regard to existing trunk line sewers. Said approval shall state all conditions of approval, if any.
- 180) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the applicant shall dedicate sewer easements to the City, subject to review and approval by the Director of Building, Planning and Code Enforcement and the Director of Public Works with respect to the final locations and requirements of the sewer improvements.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 181) Sewer Improvement plans shall be approved by the County of Los Angeles, the County Sanitation Districts, and the Director of Public Works.
- 182) A sewer connection fee shall be paid to the County Sanitation Districts of Los Angeles County prior to the issuance of a permit to connect to the sewer line.

Water

- 183) Prior to the construction of any water facilities, the Director of Public Works shall review and approve the water improvement plan. Any water facilities that cannot be constructed below ground shall be located on the subject property and screened from view from any public rights-of-way, to the satisfaction of the Director of Public Works and the Director of Planning, Building and Code Enforcement. In addition, an easement to California Water Service shall be dedicated prior to issuance of any grading or building permits.
- 184) The project site shall be served by adequately sized water system facilities which shall include fire hydrants of the size and type and location as determined by the

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Los Angeles County Fire Department. The water mains shall be of sufficient size to accommodate the total domestic and fire flows required for the development. Domestic flow requirements shall be determined by the City Engineer. Fire flow requirements shall be determined by the Los Angeles County Fire Department and evidence of approval by the Los County Fire Department is required prior to issuance of building permits.

- 185) Framing of structures shall not begin until after the Los Angeles County Fire Department has determined that there is adequate fire fighting water and access available to said structures.
- 186) The applicant shall file with the Director of Public Works an unqualified "will serve" statement from the purveyor serving the project site indicating that water service can be provided to meet the demands of the proposed development. Said statement shall be dated no more than six months prior to the issuance of the building permits for the main hotel structure. Should the applicant receive a qualified "will serve" statement from the purveyor, the City shall retain the right to require the applicant to use an alternative water source, subject to the review and approval of the City, or the City shall determine that the conditions of the project approval have not been satisfied.
- 187) Prior to the issuance of building or grading permits, the applicant shall file with the Director of Public Works, a statement from the purveyor indicating that the proposed water mains and any other required facilities will be operated by the purveyor, and that under normal operating conditions the system will meet the needs of the project.

TENTATIVE PARCEL MAP NO. 26073

- 188) The proposed parcel map shall result in the creation of four (4) parcels (resort hotel parcel, west casita parcel, east casita parcel, and villa parcel). The 2.2 acre Bluff Top park and Fishing Access Expansion Parking Lot shall be separately deeded to the City prior to recordation of the Final Map.
- 189) The applicant shall record a restrictive covenant or other document that is satisfactory to the City Attorney that requires all of the various parcels that are within the boundaries of the parcel map to be fully managed by the resort hotel operator.
- 190) The applicant shall supply the City with one mylar and ten copies of the map no later than thirty (30) days after the final map has been filed with the Los Angeles County Recorders Office.

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- 191) All improvement plans shall be as-built upon completion of the project. Once the as-built drawings are approved, the applicant shall provide the City with a duplicate mylar of the plans.
- 192) The improvement plans shall be prepared by a Registered Civil Engineer, and shall be prepared on standard city size sheets. Plans shall be in substantial conformance with the approved tentative map and site plan as approved by the City Council and stamped by the Planning Department with the effective date of this approval.
- 193) This approval expires twenty-four (24) months from the date of approval of the parcel map by the City Council, unless extended per Section 66452.6 of the California Government Code and Section 16.16.040 of the RPVMC. Any request for extension shall be submitted to the Planning Department in writing at least sixty (60) days prior to the expiration of the tentative map.
- 194) This development shall comply with all requirements of the various municipal utilities and agencies that provide public services to the property.
- 195) According to Section 16.20.130 of the RPVMC and the Subdivision Map Act (California Government Code Section 66410 et seq.), at the time of making the survey for the final parcel map, the engineer or surveyor shall set sufficient durable monuments to conform with the standards of the Subdivision Map Act. Prior to recording the final map, the exterior boundary of land being subdivided shall be adequately monumented with no less than a two (2) inch iron pipe, at least eighteen (18) inches long, set in dirt and filled with concrete at each boundary corner. The parcel lot corners shall be monumented with no less than one-half inch iron pipe for the interior monuments. Spikes and washers may be set in asphalt pavement and lead and tacks may be set in concrete pavement or improvements in lieu of pipes. All monuments shall be permanently marked or tagged with the registration or license number of the engineer or surveyor under whose supervision the survey was made.
- 196) The applicant shall be responsible for repair to any public streets which may be damaged during development of the subject parcels.
- 197) Easements shall not be granted within easements dedicated or offered for dedication to the City until after the final map is filed and recorded with the County Recorder. No easements shall be accepted after recording of the final map that in any way conflict with a prior easement dedicated to the City, or any public utility. All existing easements shall remain in full force and effect unless expressly released by the holder of the easement.

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- 198) Any easement that lies within or crosses public rights-of-way propose to be deeded or dedicated to the City, shall be subordinated to the City prior to acceptance of the rights-of-way, unless otherwise exempted by the Director of Public Works.

Prior to Submittal of the Final Map

- 199) Prior to submitting the final map to the City Engineer for examination, the applicant shall obtain clearance from all affected departments and divisions, including a clearance from the City Engineer for the following items: mathematical accuracy, survey analysis, correctness of certificates and signatures.

Prior to Approval of the Final Map

- 200) Prior to approval of the final map, any off-site improvements, such as rights-of-way and easements, shall be dedicated to the City.
- 201) Prior to approval of the final map, all existing public or private easements, including utility easements, shall be shown on the final parcel map.
- 202) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the parkland dedication requirement shall be fulfilled by the applicant in the form of either dedication of land for park purposes or the payment of in-lieu fees, or a combination thereof, as determined by the City Council pursuant to the RPVMC.

(REVISED PER RESOLUTION NO. 2008-112 ON NOVEMBER 18, 2008)

- 203) Prior to issuance of a final Certificate of Occupancy for the main hotel building or prior to August 1, 2009, whichever occurs first, the applicant shall pay the affordable housing fee required in accordance with the RPVMC.

(REVISED PER RESOLUTION NO. 2008-11 ON NOVEMBER 18, 2008)

- 204) The final map is subject to review and approval by the City Engineer. The applicant shall establish a trust deposit with the City to cover any costs incurred by the City in conducting this review.
- 205) The proposed parcel map shall adhere to all the applicable dedications and improvements required per Chapter 16.20 of the RPVMC.



July 22, 2009

Ara Mihranian
Principal Planner
City of Rancho Palos Verdes
30940 Hawthorne Blvd.
Rancho Palos Verdes, CA 90275

Re: Terranea Resort – CUP Amendment L

Dear Ara,

This letter is to request a revision to the Conditional Use Permit (CUP) Conditions of Approval for Terranea Resort to allow for the following:

- Amend the Council adopted Conditions of Approval by extending the condition compliance date for specific conditions from August 1, 2009 to November 1, 2009 or prior to the issuance of the Final Certificate of Occupancy for the main hotel building, whichever occurs first.
- Amend the conditions of approval to allow the expanded operation of the spa and massage facilities for “outcall massages”.

Final Certificate of Occupancy:

As part of our weekly project review with City Staff it has become apparent that additional time is required to satisfy the outstanding conditions of approval linked to the issuance of the Certificate of Occupancy on the main hotel building. The intent of this revision is extend the condition compliance date for specific conditions from August 1, 2009 to November 1, 2009 or prior to the issuance of the Final Certificate of Occupancy for the main hotel building, whichever occurs first. While we continue to work diligently with Staff to resolve these outstanding items, some conditions require third party approvals that are not being completed in the timeline we anticipated.

Outcall Messages and Expanded Spa Services:

Per the RPV Municipal Code "outcall massages" are prohibited, unless they occur at a premises, such as Terranea Resort, pursuant to the provisions of a conditional use permit. "Outcall Massages" are defined as:

"Outcall massage' is any massage performed by a massage technician outside of the licensed massage establishment where the massage technician is employed. Outcall massages, including chair massages, are prohibited unless conducted on the premises where the massage establishment is located and such premises are subject to a conditional use permit that specifically authorizes the massage establishment and the performance of outcall massage services on said premises in accordance with applicable provisions of Chapter 5.24."

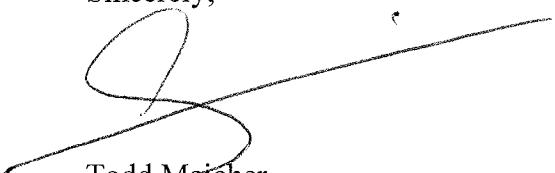
Terranea Resort requires the flexibility of outcall messages to allow for the varied services typical of a resort facility. Per the amended RPV ordinance, Chapter 5.24 (Massage Establishments and Technicians) these services will be performed within locations that are regulated by the Terranea conditional use permit.

As defined by the amended ordinance an 'outcall massage' is any massage performed by a massage technician outside the limits of the Terranea Spa Facility and is regulated by the facilities conditional use permit.

Therefore, in accordance with recently amended Chapter 5.24 of the RPV Municipal Code, we are respectfully requesting that the Council amend our conditional use permit to allow outcall massage services, including chair massages, outside the limits of the Spa Facility but within the limits of the Resorts 102 acres, including but not limited to the lower beach area, golf facility hotels rooms, villas, casitas and bungalows.

We are very excited to have finally realized the completion of Terranea Resort and are overwhelmed by the support of the community. The amendment requests described in this narrative are an integral component in Terranea's ongoing success as well as providing for a safe, smooth and seamless transition from the construction process to the operation of the Resort. We are requesting this item be reviewed at the August 4th, 2009 Council Hearing. Please call me with any questions you may have regarding this letter.

Sincerely,



Todd Majcher
Vice President
Long Point Development, LLC

cc: Bob Lowe
Michael Tande
Terri Haack

-----Original Message-----

From: Hallem, Timi
Sent: Monday, August 03, 2009 6:13 PM
To: Carol W. Lynch
Subject: TOT Expenses

Carol,

As we have discussed, pursuant to the TOT ordinance, the expense reimbursement to the City is required to be paid when a project enlists in the TOT rebate program.

As you know, the request to its lenders for consent to Terranea's enlistment in the program has not yet been approved and is still pending. Terranea has therefore not enlisted in the program at this time.

I therefore request that the City extend its request for payment to be due on the date on which Terranea enlists in the TOT rebate program.

Thank you for your consideration of this request.

Timi

Timi Anyon Hallem
Manatt, Phelps & Phillips, LLP
11355 W. Olympic Boulevard
Los Angeles, CA 90064
310.312.4217 (direct)
310.914.5844 (direct fax)
310.312.4224 (main fax)
310.254.7079 (cell)

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IRS CIRCULAR 230 DISCLOSURE: To comply with requirements imposed by recently issued treasury regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written by us, and cannot be used by you, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another person any transaction or matter addressed herein. For information about this legend, go to <http://www.manatt.com/circ230>

Dennis Mclean

From: Tande, Mike [mtande@loweenterprises.com]
Sent: Friday, July 31, 2009 3:50 PM
To: dennism@rpv.com
Cc: Lowe, Rob; Currie, Christopher; Haack, Terri; Allen, Paul; Lee, John; Ara M
Subject: TOT Trust Acct

Dear Mr. Mclean,

Unfortunately Long Point Development, LLC. is unable to fund the trust account in the amount of \$120,000 for the costs associated with the Transient Occupancy Tax (TOT) at this time. LPD continues to work diligently with our lenders but has yet to receive their approval to make this payment. LPD will update the City of Rancho Palos Verdes as new information becomes available.

Please note that LPD has now submitted payment of the affordable housing fee in the amount of \$931,910.

In addition, Terranea has generated approximately \$221,000 in transient occupancy tax for the City of Rancho Palos Verdes since the opening of the resort. To date, the City has received \$3,399 for the TOT generated in May 2009 and an additional \$61,307 for the TOT generated in June 2009. The estimate for TOT generated in July 2009 is \$156,281. This will be paid on August 30, 2009.

We appreciate your ongoing patience and support.

Sincerely,

Michael Tande

Michael S. Tande

Senior Vice President / Development Manager
LDD Long Point Development, Inc.
6610 Palos Verdes Drive South
Suite A
Rancho Palos Verdes, CA 90275
Ph: 310-802-7407
Fx: 310-802-7450
mtande@loweenterprises.com

From: Nelsongang@aol.com [mailto:Nelsongang@aol.com]
Sent: Wednesday, July 29, 2009 8:24 PM
To: cc@rpv.com
Subject: August 4th Meeting: Terranea Resort item

Council members,

We are out of state Tuesday, August 4th. Therefore, a brief email to request you approve Terranea's requests.

We believe it is important to facilitate income production from Terranea. Improving their Spa's availability tonight fits this.

Now that Terranea has been open for a couple of months, we also understand there are other conditions we imposed that are reducing Terranea income to our city. You might inquire of their representatives what these are and, should you choose, begin the correction process.

Bob and Sandie Nelson
612 Channelview Court
RPV, CA 90275
310-544-4632

Hot Deals at Dell on Popular Laptops perfect for Back to School
([http://pr.atwola.com/promoclk/100126575x1223106546x1201717234/aol?redir=
http%2F%2Faltfarm.mediaplex.com%2Fad%2Fck%2F12309%2D81939%2D1629%2D8](http://pr.atwola.com/promoclk/100126575x1223106546x1201717234/aol?redir=http%2F%2Faltfarm.mediaplex.com%2Fad%2Fck%2F12309%2D81939%2D1629%2D8))

From: Cindy Ruderman [mailto:cindyruderman@hotmail.com]
Sent: Thursday, July 30, 2009 6:32 PM
To: aram@rpv.com
Subject: Terranea

I cannot be at the meeting but would like to say that Terranea is a fabulous new addition to the Peninsula and would support whatever break they need to stay afloat until the economy improves and the word get out and they are full of guests!

Registered to vote as Cynthia R. Thomas
Cindy Ruderman

Windows Live™ Hotmail®: Celebrate the moment with your favorite sports pics.
[Check it out.](#)

From: Hallem, Timi [THallem@manatt.com]
Sent: Tuesday, August 04, 2009 5:12 PM
To: Ara M
Cc: Majcher, Todd; Tande, Mike; Carol W. Lynch; carlam@rpv.com
Subject: RE: Terranea - City Council Memo

This email is being written on behalf of Long Point Development, LLC.

The TOT ordinance adopted by the City provides that the City's expenses are to be paid as a condition of qualification for the TOT rebate program. This makes sense, as if there is no enrollment in the program, the City gets the entire TOT generated by the hotel. The TOT pays all expenses within less than a month. The payment of expenses was needed if the City were deferring receipt of a portion of the TOT.

The TOT ordinance was adopted as a separate ordinance of general application. It is not part of the CUP or conditions of approval for Terranea, and the expenses are not appropriately part of the Terranea conditions of approval. For that reason, the expenses are expressly required to be paid on enrollment in the TOT program.

We request that the City not make the change requested by the staff.

Timi

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From: Ara M [mailto:aram@rpv.com]
Sent: Tuesday, August 04, 2009 5:02 PM
To: Hallem, Timi
Cc: 'Majcher, Todd'; Tande, Mike; aram@rpv.com; 'Carol W. Lynch'
Subject: Terranea - City Council Memo

Timi

Attached is a memo to the City Council and revised conditions of approval that address the issues related to the outstanding invoices for the TOT matter.

Ara