

December 6, 2001

**Honorable Mayor and Members of the
Hermosa Beach City Council**

**Regular Meeting of
December 11, 2001**

SUBJECT: PLANNED DEVELOPMENT PERMIT/PRECISE DEVELOPMENT PLAN (PDP) TO CONSTRUCT A SUBMARINE FIBER OPTIC CABLE SYSTEM LOCATED AT THE BEACH AND ON CITY OWNED PROPERTY.

APPLICANT: TYCOM NETWORKS (US) INC.
10 PARK AVENUE
MORRISTOWN, NJ 07960

REQUESTS: PLANNED DEVELOPMENT PERMIT/PRECISE DEVELOPMENT PLAN NO. 01-10 AND FINAL ENVIRONMENTAL IMPACT REPORT

Planning Commission Recommendation:

Adopt the attached Resolutions:

- Certifying the Final Environmental Impact Report, and adopting a Mitigation Monitoring Program, as amended, Findings and Facts in Support of Findings and a Statement of Overriding Considerations relating to air quality (Attachment No. 1),
- Approving the Planned Development Permit/Precise Development Plan No. 01-10 with conditions;
- Finding the lease agreement for TyCom's use of City owned property is consistent with the City's General Plan (Attachment No. 2); and,
- Approving the Easement Agreement ("The Lease" will be provided under separate cover).

Background:

In April of 2001, TyCom Networks Inc. submitted a Planned Development Permit/Precise Development Plan (PDP No. 01-10) to the City of Hermosa Beach to install and operate submarine fiber optic cables in the marine waters under the City's jurisdiction and to install two landings on the City beach, one at Longfellow Avenue and one at Second Street. In addition, the proposal included the installation of underground fiber optic cables on the land within existing City public rights-of-way and on the sea floor beyond the City's jurisdiction. TyCom's application was deemed complete in June 2001.

Public Participation Process

The Planned Development Permit/Precise Development Plan and Environmental Impact Report process included opportunities for public review and comment, including circulation of a Notice of Preparation to responsible agencies, active groups with potential interests and interested members of the public. On June 28, 2001 the Environmental Review Committee met to consider the environmental impacts of the project. They concurred that an EIR is appropriate and warranted. On July 12, 2001, the Community Development Department conducted a public scoping meeting to accept comments on the scope of the

EIR. Approximately 25 people attended that meeting. The City also notified all responsible county, state and federal agencies, plus non-profit organizations, adjacent cities and interested individuals. The comments received from the Draft Environmental Impact report are included in the *Response to Comments* section of the Final EIR (Attachment No. 4). In addition, the project has been presented to the Public Works and Parks and Recreation Commissions at their duly noticed meetings. No public opposition to the project was received. A neighborhood meeting was held on October 24, 2001, to obtain input from those residents near the proposed staging areas. Approximately 12 residents attended the meeting and some noted concern or opposition to the project. The Planning Commission public hearing was advertised and a bulk mailing notifying all residents of the City of the public hearing dates for both Planning Commission and City Council was mailed out on November 8, 2001. The City and TyCom have tried to be responsive to the concerns and issues raised throughout this process. To date, no formal written opposition has been received from residents. The Planning Commission also held two public hearings on the project prior to taking final action on December 5, 2001. On December 5, 2001, the Planning Commission voted 4 to 0 to recommend approval of the project.

Permit Authority

The City's beach and greenbelt have a General Plan designation of "Open Space", and the greenbelt is zoned "OS-1, Restricted Open Space". There is no zoning designation for the beach or the public rights-of-way. The City Attorney has advised that TyCom's proposed fiber optic cable system is analogous to a public utility facility and is regulated by federal statutes. Public utilities and public utility corridors are permitted on the beach, in the ocean and in the greenbelt, subject to approval of a Planned Development Permit/Precise Development Plan and a lease agreement for use of City owned property.

Following the first of two Planning Commission public hearings on November 20, 2001, TyCom elected to eliminate the Longfellow Avenue landing site from further consideration and use only the Second Street landing site and alignment. This modification reduced the environmental impacts and timeframes associated with the project and is consistent with the City's financial terms for use of City property. TyCom's formal written request to eliminate the Longfellow Avenue landing site was received by the City on November 28, 2001, and is attached (Attachment No. 3). Based on a single landing site at Second Street, the issue of a preferred alignment along the Greenbelt or down Manhattan Avenue has been eliminated from further discussion. At the second public hearing on December 5, 2001, the Planning Commission considered the PDP, the Final Environmental Impact Report (FEIR), which is Attachment No. 4, and whether the lease agreement is consistent with the City's General Plan.

If TyCom receives approval from the City Council, the project will then require permit approval by the California Coastal Commission and permits from other applicable state and federal agencies. Construction will commence upon acquisition of all required permits and approvals. According to TyCom, their goal is to be operational by the end of May 2002.

Project Description

The project proposal involves installation of two segments of a submarine fiber optic cable system off the coast of California and within the cities of Hermosa Beach and Redondo Beach to provide

additional capacity for global voice and data transmission and global access to planned and existing land-based infrastructure. The two fiber optic cables originate in Japan and will be part of the TyCom's Transpacific ring cable system. Specifically, the proposed project consists of installing two fiber optic cables, each with self-contained power, onto the continental shelf and now landing at only one beach location at Second Street within the City of Hermosa Beach. The fiber optic cables are proposed to be connected to a cable station in Redondo Beach by buried terrestrial fiber optic cables. There will be no aerial (above ground) cables associated with this project. The proposed marine fiber optic cables would follow one of the terrestrial routes as shown in the DEIR on page 1-5 and Figure 1-3. The north cable will ultimately connect to Oregon, then on to Japan. The south cable will ultimately connect to Hawaii and then to Japan, as shown on page 1-3 and Figure 1-1 in the DEIR.

The project is intended to provide uninterrupted service to the existing land based telecommunication infrastructure for the life of the project, which is approximately 25 years. According to TyCom, the network will help to alleviate capacity restrictions that periodically occur between California and Pacific Rim cities and also allow for the predicted growth of telecommunications traffic, increasing the efficiency for private enterprise within the Los Angeles Basin.

Prior to selecting Hermosa Beach as their preferred location, TyCom analyzed other areas along the southern California coastline, plus Mexico. According to TyCom, the City of Hermosa Beach was chosen for the following reasons:

- Hermosa Beach is in the LA Basin, which TyCom wants to serve.
- The ocean topography and geography of the area avoids sensitive habitat areas.
- There are no other existing fiber optic cable systems, major outfalls or other improvements in the immediate area of Hermosa Beach that would conflict with their fiber optic cable system.
- The City owns the beach and tidelands, which means TyCom has a more direct and less complicated review and approval process than it would in dealing with the County and the state.
- Other adjacent beach cities have not expressed interest in the project.

There are a number of other cable systems along the coast of California, including the most recent installation of the Global West cable system in the City of Manhattan Beach. Unlike many other coastal communities, the City of Hermosa Beach actually owns the beach and marine waters as granted in a transfer of trust in 1919. The City may exercise local control of the TyCom project, subject to the provisions of the trust, which requires that revenues received for lease of trust lands, be used to improve them. The City is aware of the rules regarding the trust provisions and will comply with those provisions. The City Council has considered a lease agreement between the City and TyCom for the use of City property. Through the lease, the City would receive compensation from TyCom for the use of City owned property. The City will use a portion of the lease revenues from for beach related improvements, such as improvements to the bathrooms, storm drains and for on-going maintenance of the pier and the beach itself.

The project has been divided into three segments: terrestrial, shore-end and marine as described in more detail in the Environmental Impact Report (EIR). The staff report highlights the preferred methods

of construction and only the Second Street landing site, although the City Council may choose the other options analyzed in the EIR.

Terrestrial Segment (Land Section)

The terrestrial segment consists of a cable station and the terrestrial fiber-optic cable that connects the cable station to the beach manhole described in the shore-end segment below. TyCom is currently proposing to use an existing building, the Technology Center located at 811 N. Catalina Avenue in Redondo Beach, for the cable station where switching equipment will be housed. The City encouraged TyCom to locate their cable station within the City of Hermosa Beach, but TyCom was unable to secure a site or facility to meet their needs and time frames.

The cable station will be connected to the marine fiber-optic cables by terrestrial fiber-optic cables. The terrestrial fiber-optic cables carry no power and are approximately one half-inch in diameter. Three different terrestrial cables will be installed within the conduit system and extend from the beach manhole to the cable station. The first cable is a light guided fiber optic cable used to transmit voice and data communications throughout the system. The second cable is an insulated copper power cable used to transmit power from the cable station to the marine cable. The third cable is an insulated copper cable used to ground the switching equipment in the cable station to the ocean ground bed at the beach. There will be no aerial (above ground) cables associated with this project. Diagrams and discussion of these improvements begin on page 2-6 of the EIR.

Shore-End Segment (Beach Section) Direct Landing: Two Cables At One Location (Second Street)

This section describes TyCom's latest proposal of directly landing both cables at one location (Second Street). The direct landing will consist of landing both cables into one trench across the beach. The alignment for a single landing site at Second Street is described in the Draft EIR. According to TyCom, their project objectives will be satisfied with a single landing site. TyCom acknowledges that some route diversity will be sacrificed by landing both cables at a single cable landing point, from the manhole at Second Street seaward to just beyond three nautical miles. They indicated that risks to cables have been reevaluated in this area and they are agreeable to installing both cable segments within a shared landing point at Second Street. TyCom does not view this change as being significant in terms of network security. TyCom has indicated they may be able to lease cable capacity from existing carriers to address their system redundancy concerns.

This description also discusses the landing operations on the beach and through the surf zone. Project activities at the beach manhole, along the terrestrial OSP route are the same as the proposed project. The steps in the direct landing process are described below and a timeframe for the activities is shown in Attachment No. 5.

Staging Area Establishment

Prior to the cable ship's arrival in the area, the staging area will be established on the beach. The staging area will measure approximately one hundred feet (100') wide and will extend from near the Strand wall to near the mean high-tide line. Minimum buffers of twenty five feet (25') will be maintained

on both the Strand side and the water side of the staging area. During the actual cable pulling access around the ocean side of the staging area will not be possible due to the construction activity. A winch will be placed in the staging area and prepared for use in the cable landing process. Approximately six to ten deliveries of supplies and equipment to the staging area will be necessary.

Trenching Across Beach

In advance of the scheduled cable landing operations, and after the staging area is established, a trench will be excavated across the beach using an excavator. Due to surf and landing conditions at the time of construction, a portion of the trench may need to be excavated after the cables are landed. The trench will be approximately 3 meters deep. A 2:1 slope will require the width of the trench at the top to approach forty feet (40') wide. Safety barricades and watchmen are used at all times while the trench is being dug and is open.

Cable Landings

After the trench has been excavated across the beach, and the cable ship arrives on station approximately $\frac{3}{4}$ miles off-shore, the cable pulling operation can commence. A small support vessel will haul the marine fiber optic cable to a point just offshore of the surf zone. At this point a wire feed from the beach winch will be attached to the cable for pulling. The winch will pull the cable ashore while the cable ship simultaneously pays-out submarine cable at the same rate. The crew of the cable ship will apply floats to the submarine cable at approximately three to five meter spacings. This will allow the cable to float ashore. The pulling continues until the cable end reaches the pulling winch. The cable will then be back-fed to the beach manhole that will be installed in the public road right-of-way. This process will then be followed for the second cable.

Cable Slack Management

When the marine cables are pulled into the beach manhole, a minimum of ten meters of slack will be left in the manhole. This would allow the cable to pay out of the manhole if ocean events make it necessary. The landing operations have pre-configured sufficient cable slack to allow the cable to self bury in the shifting seafloor.

Cable Protection & Trench Backfilling

After the cables are installed into the trench and back-fed into the beach manhole, cast iron split pipe protection is applied from the beach manhole towards the sea. After the protection is completed on the beach, the cable is secured down in the trench and buried. No split pipe will be applied seaward of the Mean Low Water mark. After the split pipe is applied to both cables, and final trenching activities on the beach are completed, the trench will be backfilled. The sand will be placed back into the trench in lifts with the proper moisture content to ensure proper compaction.

Restoration

Beach restoration normally can be completed in one day. The original beach contours will be reestablished and the sand will be graded. All tools and excavation equipment and any debris or

evidence of construction activities will be removed from the site. All public safety notices and barriers will be removed and the site will be re-opened to the public.

Post Lay Burial of Marine Cable

Once the marine cable is landed, the buoys applied to the cables during cable pulling, can be removed and the cable allowed to settle to the bottom. This cable will then be buried using post lay burial methods. Post lay burial methods include diver assisted jetting tools, jet sled jetting, tracked trencher or diver-assisted air or water lift tools. In the surf zone, where target cable burial depth is two meters, a jet sled or tracked trencher will most likely be the tool used to achieve the burial. Beyond the surf zone, where target burial depths are one meter, diver assisted jet burial will likely be the method used. These methods are detailed in the EIR.

Beach Equipment & Supplies

The equipment required on the beach to conduct this operation includes a winch and excavator. This equipment for pulling cable will be identical to that described in the primary project description. The articulated split pipe consists of individual cast iron pieces that encase the submarine fiber optic cable to provide additional protection to the cable. This split pipe is delivered to the beach in pallet size crates. Eight to ten crates will support approximately 600 horizontal feet (2 cables x 300 feet) of split pipe protection.

This typical installation procedure will also require toolboxes containing all tools and rigging gear necessary to support the operation. These miscellaneous boxes (typically gangboxes 5 feet wide x 3 feet deep x 4 feet high) need to be accessible during the operations and can easily be removed when installation is complete. The total amount of space for the operation, including staging, will be approximately 50,000 square feet.

Marine Segment (Ocean Section)

The marine segment of the project lies westerly of the point where the water depth reaches 30 meters. The marine operations will consist of burying the marine fiber-optic cable beneath the ocean floor along its predetermined course. The fiber-optic marine cables proposed for installation are armored; that is, protected by one or more rings of galvanized wires and encased in a pine tar-soaked nylon. The cables will be buried, wherever practicable using reasonable endeavors, as found acceptable by permitting agencies, from the 30-meter marine depth, westerly out to a typical water depth of 1,800 meters. From that point, the cables will be laid directly on the sea floor toward their destinations in Oregon and Hawaii. Under the alternatives recommended by staff, the two cables would be separated within the ocean to provide security for the system, but would be joined at the cable landing at Second Street. The California Coastal Commission and Army Corps of Engineers also have jurisdiction beyond the City's boundaries. These agencies will review the proposal through the Coastal Development Permit application required and may require additional mitigation or revisions to the system design.

Regardless of the method of installation approved, the Conditions of Approval will include requirements that all work within the City be subject to review and approval by the Public Work's Department. The City will inspect all the work as it proceeds and all work will be designed and constructed in

accordance with all applicable local, state and federal regulations. The other conditions, the Mitigation Monitoring Program and the findings to support the EIR and the need to make a statement of overriding Considerations for air quality are included in the attached resolutions.

Analysis

Pursuant to Government Code Section 15064, the California Environmental Quality Act (CEQA) Guidelines require the preparation of an Environmental Impact Report when the Initial Study for the project indicates there is the potential for significant environmental impacts to occur. The environmental impacts initially identified as potentially significant included the following:

- Public Access to the beach areas.
- Marine mammal entanglement
- Exclusion of fishing
- Air Quality
- Noise

The City concluded that the best method to ensure the adequate environmental analysis of the fiber optic cable project was through the preparation of an Environmental Impact Report (EIR). The City is acting as the lead agency, since Hermosa Beach has the greatest responsibility for supervising and approving the project as a whole. The City hired Ecology and Environment (E&E) to prepare the Environmental Impact Report for the City. TyCom reimbursed the City for the cost of the EIR. The Environmental Impact Report discussed the potential environmental short-term and long-term impacts of the project. The EIR also assessed the impacts of operation, maintenance, retirement and abandonment or removal of these segments, as well as, feasible alternatives to the proposed project.

The EIR concluded that the environmental impacts will be short-term, limited to the duration of construction activities. There are no significant long-term impacts associated with the project. Certain project modifications to reduce or avoid significant environmental impacts are included as mitigation measures in the EIR. These recommended mitigation measures are incorporated into a Mitigation Monitoring Program, which was prepared following the completion of the EIR. The implementation of the Mitigation Monitoring Program will be an integral part of the success of the project. Because of TyCom's recent change to their project, the City's environmental consultant could not modify the attached Mitigation Monitoring Program to conform to the one landing site option. Therefore, staff will be recommending that the City Council approve the attached Mitigation Monitoring Program, subject to modifying the Mitigation Monitoring Program to reflect a single landing at Second Street utilizing a direct burial.

The Draft Environmental Impact Report (EIR) has been previously provided to the City Council members for their review. The Final EIR, including the response to comments, is attached (Attachment No. 3). The City sent out the Draft EIR to thirty-nine (39) agencies and organizations. The City received comments from nine (9) agencies or individuals, including the Coastal Commission and State Lands Commission. The comments to the Draft EIR and the City's responses to comments are included in the attached Final EIR.

TyCom's most recent proposal to utilize only one cable landing site has been analyzed as an alternative in the EIR, Chapter 17. According to the City's environmental consultant, the overall short-term impacts during the construction would be reduced significantly with only the Second Street landing, utilizing a direct burial method of installation. This procedure is a typical method commonly employed in the submarine cable industry and is in fact the method utilized in the majority of cable shore end landings around the world. The direct landing alternative is discussed in Section 17.3.7 beginning on page 17-14 of the EIR. The EIR concludes that: "This alternative would decrease environmental impacts during installation, mainly in relation to beach access, recreation, and noise." A supplemental analysis was prepared to further assess the single landing point utilizing direct burial alternative now proposed by TyCom is attached to the resolution certifying the EIR.

All potential significant short-term impacts have been avoided or reduced to a less than significant level, except for air emissions. The City's environmental consultant feels that no new biological surveys are needed, since the single cable landing route was previously studied and that all associated environmental impacts will remain than significant. In regards to air impacts with a single landing point, there will be no additional time required beyond that previously analyzed, thus no new air quality impacts would result. However, as previously analyzed, over a period of 12 to 24 days, the marine cable installation activities generated by TyCom's sea vessels, will result in daily emissions that exceed the Southern California Air Quality Management District (SCAQMD) thresholds for oxides of nitrogen, reactive organic compounds, carbon monoxide and sulfur dioxide. TyCom has agreed to fully mitigate the impacts out to three nautical miles from shore. This issue is further discussed in the EIR, Chapter 13, Air Quality and Chapter 18, Significant and Unavoidable Impacts. A Statement of Overriding Considerations is required as part of the approval of the project because the daily air quality thresholds will be exceeded, even with mitigation. The findings to support the Statement of Overriding Considerations are included within Exhibit A attached to the Resolution certifying the EIR.

It is important to note that the installation using the direct landing method can be completed more quickly than the method originally proposed by TyCom. Thus, the duration of traffic, noise, recreation, aesthetic and beach access impacts along the shoreline would be reduced from approximately 4 to 6 weeks to approximately 7 to 10 days for the beach segment of the project that involves both cables within the single trench at Second Street.

Consistency with the General Plan, LCP and Coastal Act

There are various elements of the City's General Plan that apply to this project, which include the Conservation, Open Space, Land Use, Circulation/Transportation/Parking, Noise and Utilities Elements. As discussed in the EIR, the project is consistent with the City's General Plan goals and policies. In addition, the EIR details how the project is consistent with the City's Local Coastal Plan (LCP) and the California Coast Act (CCA). This EIR incorporates, by reference, the analysis of California Coastal Commission issues included in the other EIRs for those projects and summarizes them, where applicable. Overall, the EIR concludes that the project is consistent with the CCA as discussed in Chapter 3 and Chapter 17 of the EIR.

Pursuant to Section 65402 of the Government Code, Restriction on the Acquisition and Disposal of Real Property, a local agency shall not dispose of any real property (sale, long term lease or easement) until the location, purpose and extent of such disposition has been submitted to and reported upon the planing agency having jurisdiction as to the conformity with the adopted General Plan or part thereof. This fiber optic cable project is analogous to a public facility and a public utility corridor, in that this project falls within the category of uses as being allowed in the Open Space designation. Since the fiber optic cables would be buried on the beach and in the street, and either buried or laid on the sea floor, the presence of these fiber optic cables would not be in conflict General Plan goals and the Zoning Ordinance relative to preserving open space or protecting the beach and ocean as a recreational resource. The impacts of such a facility have been analyzed in the EIR. All potential significant impacts have been avoided or reduced to a less than significant level, and thus do not adversely affect the public use of the beach or the ocean. Based on the information provided, the Planning Commission found the lease to be consistent with the City's General Plan, which is further detailed in the attached City Council resolution approving the PDP application.

Financial Benefits/Lease Agreement

The proposed project will provide the City with revenues from the lease of City owned property. Under the agreement, the City will receive one time license fee from TyCom for the use of City owned property, plus annual rent payments for the term of the agreement (25 years). These revenues would be used to offset the City's current costs to renovate, maintain or improve the beach, storm drains, adjacent streets, walkways, public parking areas, the lifeguard building on the pier and the pier. TyCom's obligations will include funding to upgrade the three beach bathrooms, plus construction of one new bathroom near the pier. The lease will also cover TyCom's obligation to fund the costs of implementing the mitigation monitoring program, inspection costs, on-going maintenance and retirement and/or removal of the system at the end of the lease.

The City Attorney has advised that the lease agreement is consistent with the terms of the grant for the use of Trust lands, which in this case is seaward of mean high tide. The lease revenues are sufficient to offset the temporary loss of the beach during construction and the use of City property for the life of the lease.

Conclusion:

In summary, given that the proposed project environmental impacts have been reduced to a level of insignificance with the exception of air quality and that, upon completion, the project is entirely underground and will not impact long term use of the beach and further that compensation received through the lease agreement will provide long term funding for improvement of the beach, related beach facilities and adjacent streets and walkways, staff recommends that the City Council approve the project, subject to conditions in the attached Resolutions.

Bob Goldin,
Project Planner

CONCUR:

Sol Blumenfeld, Director
Community Development Department

Stephen Burrell,
City Manager

Attachments

1. Resolution No. ____ Certifying the Final Environmental Impact Report, including adopting a Mitigation Monitoring Program, Findings and Facts in Support of Findings and a Statement of Overriding Considerations relating to air quality
2. Resolution No. ____ Planned Development Permit/Precise Development Plan No. 01-10, finding the lease agreement is consistent with the General Plan
3. TyCom's letter revising the number of landings
4. Final EIR
5. Schedule of Activities

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE TYCOM SUBMARINE FIBER OPTIC CABLE PROJECT; ADOPTING A MITIGATION MONITORING PROGRAM; ADOPTING THE FINDINGS AND FACTS IN SUPPORT OF FINDINGS AS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS RELATING TO AIR QUALITY.

THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH HEREBY FINDS ORDERS AND RESOLVES AS FOLLOWS:

SECTION 1. On April 13, 2001, TyCom Global Networks Inc. (the “Applicant”) filed an application for a Precise Development Plan/Planned Development Permit for a submarine fiber optic cable system to be located on city owned property (the “Project”) and on June 14, 2001 the application was deemed complete and has since been revised from two cable landing points (one at Longfellow Avenue and one at Second Street) to have only one cable landing point at Second Street that utilizes the direct burial approach for installation of the beach segment of the Project.

SECTION 2. The City prepared an Initial Study for the Project pursuant to Section 15063 of the State Guidelines implementing the California Environmental Quality Act (“CEQA”). The Initial Study concluded that there was substantial evidence that the Project might have a significant environmental impact on several specifically identified resources and governmental services. The Initial Study was distributed for public review on June 25, 2001 for a thirty (30) day period that ended on July 26, 2001.

SECTION 3. Pursuant to State CEQA Guidelines Sections 15064 and 15081, and based upon the information contained in the Initial Study, a decision was made to prepare an Environmental Impact Report (“EIR”) for the Project. A Notice of Preparation of a Draft Environmental Impact Report (“DEIR”) was prepared for the Project and sent to the State Clearinghouse in the office of Planning and Research for the State of California (EIR assigned number *SCH No. 2001 061111*) and to other responsible, trustee, and/or interested agencies and persons. The City contracted with an independent consultant for the preparation of the EIR.

SECTION 4. On July 12, 2001 the public scoping meeting was held after being noticed by publication in the local press, by posting in the vicinity of the Project Sites, at City Hall, and through an individual notification to all residents of the City. The meeting provided an introduction to the project and the CEQA process, and provided an opportunity for the public and interested agencies to comment on the issues to be analyzed in the EIR.

SECTION 5. The DEIR was circulated to interested persons and agencies between September 24, 2001, and November 7, 2001, for a 45-day comment period pursuant to State CEQA Guidelines Section 15087(c). In response to the circulation of the DEIR, the City received written and oral comments regarding the adequacy of the DEIR. The City prepared written responses to all comments, which may have potentially raised significant environmental issues. On November 7, 2001, the circulation of DEIR was completed. Pursuant to State CEQA Guidelines Section 15085, the City prepared a Notice of Completion of the DEIR, which was filed by mail with the State Office of Planning and Research on September 24, 2001. A copy of the Notice of Completion and of the mailing list to agencies and interested individuals is included in the Final Environmental Impact Report (“FEIR”). The City incorporated all comments received and the City’s responses into the FEIR and returned responses to commenting agencies at least ten (10) days prior to the Certification of the FEIR, pursuant to Public Resources Code Section 21092.5.

SECTION 6. The FEIR is comprised of the DEIR circulated on September 24, 2001,

including any revisions thereto; the list of persons, organizations and public agencies which commented on the DEIR, the comments which were received by the City regarding the DEIR, and the City's written responses to significant environmental points raised in the review and consultation process, each of which is incorporated herein and made a part hereof by this reference.

SECTION 7. The City Council finds that the public and government agencies have been afforded ample notice and opportunity to comment on the Initial Study, DEIR, and FEIR.

SECTION 8. The City Council finds, pursuant to CEQA Guidelines Section 15084(e), that the City has independently analyzed the EIR and that the EIR represents the independent judgment of the City as lead agency with respect to the Project. The City Council further finds that the additional information provided in the staff reports accompanying the Project Description and EIR, the corrections and modifications to the DEIR made in response to comments and the evidence presented in written and oral testimony presented at the above-referenced hearing, do not represent significant new information so as to require re-circulation of the EIR pursuant to Public Resources Code Section 21092.1.

SECTION 9. The City Council finds that the comments regarding the DEIR and the responses to those comments have been received by the City, that the City Council has received public testimony regarding the adequacy of the FEIR, and that the City Council, as the final decision-making body for the lead agency, has reviewed and considered all such documents and testimony prior to acting on the Project. Pursuant to State CEQA Guidelines Section 15090, the City Council therefore certifies that the FEIR has been completed in compliance with CEQA.

SECTION 10. Based upon the Initial Study, the DEIR, the FEIR, public and agency comments and the record before the City Council, City Council finds that the Project will not cause significant environmental impacts in the areas of Mineral Resources, Agricultural Resources, and Population/Housing. Explanations for why the foregoing impacts were found to be insignificant are contained in the EIR and Initial Study in Appendix A of the DEIR.

SECTION 11. The Initial Study identified some of the Project's effects as "potentially significant." However, based upon the analysis presented in the DEIR and the FEIR, and upon public and agency comments and the record before the City Council, the City Council finds that the Project will not cause significant environmental impacts in the following areas identified as "potentially significant" in the Initial Study in Appendix A of the DEIR relating to Aesthetics, Air Quality (other than those impacts generated from the marine segment), Biological Resources, Cultural Resources, Geology/Soils, Hazards and Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Noise, Public Services, Recreation, Transportation/Traffic, Utilities/Service Systems as summarized below and further detailed in the EIR:

- a. **Aesthetics:** The proposed project will not have a negative aesthetic effect on views from the Strand, the beach and surrounding public areas. Following installation of the fiber optic cable system, there are no visible above ground facilities. As a result, the aesthetic impacts are reduced to level of insignificance. Further explanation for these determinations may be found in Section 15 of the EIR.
- b. **Air Quality:** The California Coastal Act requires that new development shall be consistent with the requirements imposed by an air pollution control district or the State Air Resources Control Board. Impacts of the project on air quality are expected to be similar to those described for other cable projects. Air emissions from the ocean segment installation will exceed daily allowable limits established by the South Coast Air Quality Management District (SCAQMD). Over a period of 12 to 24 days, the marine cable installation activities generated from TyCom's sea vessels will result in daily emissions that exceed the Southern California Air Quality Management District (SCAQMD) thresholds for oxides of nitrogen, reactive organic compounds, carbon monoxide and sulfur dioxide. The City, through the CEQA process, has imposed mitigation measures out to three nautical miles; therefore, the project is consistent with policies regarding protection of the rules and requirements of the local air district as required by Section 30253(3) of the California Coastal Act. A Statement of Overriding Considerations is required, as part of the approval of the project, because the daily air quality thresholds will be exceeded for the marine segment, even with

mitigation. This issue is further discussed in the HR, Chapter 13, Air Quality and Chapter 18, Significant and Unavoidable Impacts.

- c. **Biological Marine Resources:** Impacts of the project on whales are expected to be similar to those described for other projects and, with the mitigation measures agreed to by TyCom will be less than significant. TyCom has agreed to bury the marine cables, where feasible, in water depths of less than 1,200 meters. TyCom has also agreed to attempt to retrieve fishing gear that may become snagged on the cables and that subsequently could threaten whales. Given the mitigation measures agreed to by TyCom, impacts on marine mammal entanglement will be less than significant. Further explanation for these determinations may be found in Sections 7 and 9 of the EIR.
- d. **Biological Resources/Fisheries and Recreation:** The California Coastal Act requires that the economic, commercial and recreation importance of fishing activities be recognized and protected. Impacts of the project on fisheries are expected to be similar to those for other projects and, with mitigation measures agreed to by TyCom, will be less than significant. TyCom has agreed to notify commercial fisheries of the installation and repair activities two weeks in advance, will bury the marine cables, where feasible, in water depths of less than 1,200 meters to reduce the likelihood that fishing gear will become snagged, will compensate fishers for loss of gear and will hold harmless the fishers for unintentional damage to the cable. Given the mitigation measures agreed to by TyCom, impacts on fishers will be less than significant. Further explanation for these determinations may be found in Sections 4 and 8 of the EIR.
- e. **Cultural Resources:** The California Coastal Act requires reasonable mitigation measures where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer. TyCom has agreed to have a qualified archaeologist monitor construction wherever soil-disturbing activities could affect known or potential terrestrial cultural resources. There are no known marine cultural resources along the marine routes. Because shipwrecks could be present, TyCom has agreed to conduct marine surveys under the direction of a qualified marine archaeologist. If potentially significant marine cultural resources are identified, TyCom has agreed to reroute the cables and avoid the potential resources. Given the mitigation measures agreed to by TyCom, impacts on cultural resources will be less than significant. Further

explanation for these determinations may be found in Section 10 of the EIR.

f. Noise: The proposed project is considered a public utilities project and therefore is not subject to restricted hours of construction stated in the State Health and Safety Code. However, there will be noise generated during the short-term construction of the terrestrial and marine activities. Mitigation measures and conditions of approval have been recommended in the EIR to reduce the short-term noise impacts of installation of the project. Restricting the hours of construction to 8 a.m. to sunset, Monday through Friday, for construction on the beach is more restrictive than currently permitted for general construction throughout the City. This limitation of work hours should reduce the impacts to adjacent residential uses. In addition, conditions are recommended in the EIR to implement beach construction operational constraints such as operating one piece of equipment at a time. Written notification prior to start of construction by TyCom to residents will also be required. Given the mitigation measures agreed to by TyCom, impacts from noise will be less than significant. Further explanation for these determinations may be found in Section 11 of the EIR.

g. Recreation: The proposed project will not be inconsistent with relevant plans and policies, including the City General Plan and the Coastal Land Use Plan. The California Coastal Act protects the public's right of access to the sea and protects coastal areas suited for water-oriented recreational activities that cannot be accommodated for readily in inland areas. During project construction, the public will be precluded from using a portion of Hermosa Beach at the single cable landing location at Second Street. If construction occurs during off peak months, this will be a minor impact, and visitors will use alternative recreational sites easily within 50 meters of the cable landings. However, if construction occurs during summer peak usage, this impact may be significant (See Section 4 Land Use, Marine Use and Recreation). Impacts of the project on public access and recreation are expected to be somewhat greater than those described for other cable projects; however with the mitigation measures agreed to by TyCom, the impacts will be less than significant. The applicant has agreed to compensate the City for public access impacts by paying money to the City to fund improvements for recreational activities and maintenance of the beach, adjacent streets, walkways, public parking areas, storm drains and the pier. Therefore the project is consistent with the policies regarding protection of the public's right of access and

accommodation of recreation and the impacts are reduced to level of insignificance. Further explanation for these determinations may be found in Section 4 of the EIR.

h. Transportation: Transportation impacts will be considered significant if the project:

- Causes an increase in traffic that is substantial in relation to the existing a traffic load and capacity of the street system;
- Exceeds, either individually or cumulatively, LOS standards;
- Results in inadequate emergency access;
- Results in inadequate parking capacity;
- Disrupts or delays marine traffic to local ports or harbors; or
- Creates navigational hazards to marine traffic due to project vessels in the marine area.

Activities associated with the terrestrial construction will include directional boring and trenching, and will entail use of heavy equipment. The required traffic control plan will conform to the specifications required by the construction and encroachment permits of Hermosa Beach and Redondo Beach. The proposed route does not traverse signalized intersections with a LOS of D or worse. Construction in front of a specific residential or commercial driveway is likely to last no longer than 3 hours to 4 hours. Access to each driveway will be maintained using steel plates over open trenches. The pedestrian and bicycle circulation network will not be impacted from the terrestrial operation of the cable lines. The cable will be below the surface and will require no routine maintenance. During cable installation in public streets, one lane of traffic will be closed. During terrestrial construction, approximately 14 parking spaces will be displaced during each day of construction. Displaced parking will advance along the route at the same rate as the construction. During working hours, all equipment will be located within the cordoned-off construction area. During non-working hours, all major equipment necessary for the immediate work will be parked in the designated work zone for the next day's work. Staging of equipment will be contained within Hermosa Beach or Redondo Beach, will not utilize existing downtown parking lots. The main staging area will be located in Redondo Beach at the southern city limit of Hermosa Beach at a vacant lot under the overhead power transmission lines. Standard construction cones, signs, and traffic control personnel will be used to direct pedestrians. Staging areas on the beach will not include employee parking and therefore will not displace beach

parking. Employees will be shuttled to and from the construction site so that public parking spaces will not be used by the construction crews. Given the mitigation measures agreed to by TyCom, impacts on transportation and parking will be less than significant. Further explanation for these determinations may be found in Section 12 of the EIR.

SECTION 12. Based upon the Initial Study, the EIR, public comments and the record before the City Council, the City Council finds that the Project may create significant impacts in the areas of Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Hazards and Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Noise, Public Services, Recreation, Transportation/Traffic, Utilities/Service Systems. The Project may create significant cumulative impacts in the areas of Air Quality. However, with the exceptions of short-term construction impacts and cumulative air quality impacts from increased vessel emissions during the installation of the ocean segment, the EIR identifies feasible mitigation measures for each impact that reduce the impact to a level of insignificance. With regard to construction and cumulative air quality impacts from vessel emissions, the EIR identifies mitigation measures that will substantially lessen each impact. Further explanation for these determinations may be found in the EIR.

SECTION 13. In response to each potentially significant impact identified in the EIR, and listed in Section 12 of this Resolution, changes or alterations are hereby required in, or incorporated into, the Project, which avoid or substantially lessen the significant environmental impacts identified. Each such change or alteration shall be a condition of approval of the Project. The changes or alterations required in, or incorporated into, the Project, and a brief explanation of the rationale for this finding with regard to each impact, are contained in Exhibit “A” and Exhibits No. 1 and No. 2 of this Resolution and are incorporated herein by this reference.

SECTION 14. The FEIR describes, and the City Council has fully considered, a reasonable range of alternatives to the Project, which might fulfill the basic objectives of the Project. These alternatives include 1) the “No Project” alternative, 2) Alternative route with a cable landing site in Manhattan Beach that was identified to reduce the potential impact to fishers and whales; 3)

Terrestrial Route for Segment #5 which would have many more environmental impacts than would Segment 5, but would reduce the marine impacts; 4) One cable landing site rather than two in Hermosa Beach to reduce the noise, traffic, timeframes and public access impacts associated with two cable sites. This alternative would reduce beach and terrestrial impacts, but would not reduce the marine impacts; 5) Terrestrial route using existing fiber which would require TyCom to lease multiple routes of existing fiber and would not fulfill TyCom's objective to provide their customers with reliable and uninterrupted service diverse from the terrestrial corridors, alternative; 6) Boring to the cable landing rather than trenching which does not allow for route segment diversity and does not meet the project the objectives, making this alternative infeasible; and 7) Alternative fiber optic cable installation method in the beach, including the use of the direct burial method, which would reduce the time needed to install the fiber optic cable, would reduce the impacts on beach access, recreation and noise, but would have similar impacts on the marine segment.

The alternatives identified in the EIR, would not sufficiently achieve the basic objectives of the Project or would do so only with unacceptable adverse environmental impacts with the exception of the direct burial method and a single cable landing alternatives. Accordingly, and for any one of the reasons set forth herein, in the EIR or in the "Statement of Findings and Facts in Support of Findings" attached hereto as Exhibit "A," the City Council finds that specific economic, operational or other considerations make infeasible each of the Project alternatives, including the "No Project" alternative, identified in the EIR and each is hereby rejected, with the exception of the direct burial method and a single cable landing point alternatives. The City Council further finds that a good faith effort was made to incorporate alternatives into the preparation of the EIR, and that all reasonable alternatives were considered in the review process of the EIR and the ultimate decision on the Project, including the requirement for TyCom to use the direct burial method and a single cable landing point at 2nd Street.

SECTION 15. Pursuant to Section 65402 of the Government Code, Restriction on the Acquisition and Disposal of Real Property, the City shall not lease any real property until the location, purpose and extent of such disposition has been submitted to and reported upon by the Planning Commission as to the conformity of the lease with the adopted General Plan or part thereof.

SECTION 16. The Planning Commission held duly noticed public hearings on November 20, and December 5, 2001 to consider recommending to City Council to certify the FEIR, adopt a Mitigation Monitoring Program, adopt a Statement of Overriding Considerations relating to Air Quality, approval of the submarine fiber optic cable system and to find that the lease agreement is consistent with the City's General Plan.

SECTION 17. The City Council held a duly noticed public hearing on December 11, 2001 to consider certifying the FEIR, adopting a Statement of Overriding Considerations relating to Air Quality, approving the submarine fiber optic cable system and finding that the lease agreement is consistent with the City's General Plan. Having heard and considered all oral and written testimony, including staff reports, the Final Environmental Impact Report and all relevant evidence and argument, the City Council hereby finds as follows:

- A. The fiber optic cable project will be located on city owned property and within the public right-of-way.
- B. The beach segment of the proposed Project is consistent with the General Plan designations for "OS" (Open Space) and the remaining segments are within public right-of-way or the ocean and thus have no General Plan designation.
- C. As conditioned, the fiber optic cable project will conform to all applicable zoning regulations.
- D. The recommended terms of the lease would be for a period of twenty-five years and cover the installation, maintenance, operation and retirement of the fiber optic cable project. The City would receive compensation for the use of city property based on the appraised fair market value of the land and its' locations. The City will direct those funds to beach related public improvements. These revenues would be used to offset the City's current costs to maintain and/or renovate the beach, storm drains, adjacent streets, walkways, public parking areas, the lifeguard building on the pier and the pier. It will also allow the City to have funds to upgrade the three beach bathrooms,

plus construct one new bathroom near the pier. The lease will also cover TyCom's obligation to fund the implementation the mitigation monitoring program and City inspection costs during construction. In additional, the revenues generated and the use of those revenues are consistent with the terms of the grant for the use of Trust lands, which in this case is seaward of mean high tide and that the lease is sufficient to offset the temporary loss of the beach during construction and the use of city property for the life of the lease.

- E. The proposed project and lease agreement for TyCom's use of the City owned property, is in conformance with the goals of the General Plan that call for:
- The protection of public recreation areas, in that compensation, via the lease agreement, will be provided to the City to offset the temporary loss of the use of the beach and will be used to enhance access to and improvements for the beach. Installation is proposed to occur prior to the peak summertime usage to minimize the impacts on the beach-going public. This project will not diminish the amount of public open space and natural resources available to the City. With full mitigation and the recommended conditions of approval, the project is considered consistent with the Open Element of the City's General Plan.
 - The Land Use Element seeks to minimize conflicts between nonresidential land uses and residential properties, in that the Land Use Element does allow appropriate private interests to lease public facilities and properties. The fiber optic cables will be buried on the beach and in the street or greenbelt and therefore, will not create any adverse aesthetic or land use impacts, and following installation, will not create any noise, light, vibration or smell.
 - The prohibition of commercial development in open space areas that would adversely affect public use and the natural environmental benefits, in that this fiber optic cable project is considered a public facility, public utility/structure and a public corridor under the FCC and not a commercial development.
 - Preserving and enhancing the environment and the natural resources, including the ocean and City beaches, in that the fiber optic cables will be buried on the beach the street or greenbelt, and either buried or laid on the sea floor, therefore the presence of these fiber optic cables will

not be in conflict with the goals of the General Plan and Zoning Ordinance relating to preserving open space or protecting the beach and ocean as a natural resource.

- Reducing and minimizing the various sources of noise, in that the City has restricted the hours of construction to 8 a.m. to sunset, Monday through Friday for construction on the beach and imposed conditions to implement operational constraints such as operating one piece of equipment at a time when on the beach.
- Minimizing the intrusion of traffic and parking into the residential areas, in that a traffic and parking control plan is required from TyCom to be reviewed and approved by the City prior to construction. The traffic and parking control plan includes ensuring emergency access is maintained, that residents and businesses are to be provided advance notification of construction or parking that may be temporarily displaced, requirements for off-site staging areas of equipment, and hours of work in the rights of way to be approved by the City.
- Maintaining bike paths and pedestrian ways, in that all bike and pedestrian ways will be maintained during construction and any temporary detours required are safe and convenient.

F. The proposed Project is consistent with the goals and objectives of the Draft Local Coastal Plan, in that the amendments to the Land Use Plan in the Draft Local Coastal Program (LCP) address three main categories: parking and access, coastal recreation access, and coastal development. As proposed and mitigated, the project would be consistent with the City's Draft LCP.

G. The City Council has independently reviewed and certified a project Environmental Impact Report ("the EIR") (State Clearinghouse No. 2001 061111) and Mitigation Monitoring Program in conformance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines (Title 14, California Code of Regulations Section 15000 et seq.) through the adoption of this Resolution. Because the EIR identified significant unavoidable environmental impacts (even with recommended mitigation) from the project relating specifically to air quality emissions from vessels during the installation of the ocean segment, the City Council balanced the benefits of the proposed project against the unavoidable risks and certifies the FEIR and adopts a statement of overriding

considerations relating to air quality pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093 (a).

SECTION 18. The City Council hereby makes the findings contained in the “Statement of Findings and Facts in Support of Findings” attached hereto as Exhibit “A” with respect to each of the significant impacts defined in the FEIR and the alternatives analysis. Further, the City Council hereby finds that each fact in support of finding is true and is based upon substantial evidence in the record, including the FEIR.

SECTION 19. Based upon the foregoing findings, the City Council hereby:

1. Certifies the FEIR for the project, including a Statement of Overriding Considerations relating to Air Quality, and makes the findings contained in the “Statement of Findings and Facts in Support of Findings” attached hereto as Exhibit “A” with respect to each of the significant impacts defined in the FEIR and the alternatives analysis.
2. Finds that each fact in support of the finding is true and is based upon substantial evidence in the record, including the FEIR.
3. Adopts the Mitigation Monitoring Program attached hereto and incorporated within as Exhibit No. 1.
4. Incorporates the Supplemental Environmental Analysis further assessing the single landing point option utilizing the direct burial approach as initially analyzed in the DEIR attached hereto and incorporated within as Exhibit No. 2.

SECTION 20. Upon approval of this Resolution, the Director of Community Development is hereby directed to file a Notice of Determination with the County Recorder’s office, County of Los Angeles, and the California State Clearinghouse pursuant to Section 21152 of the Public Resources Code.

SECTION 21. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 11th day of December 2001.

President of the City Council and Mayor of the City of Hermosa Beach, California

President of the City Council and Mayor of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

cd.tycom cc reso revision for EIR 12-11 (12-6-01)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF

**HERMOSA BEACH, CALIFORNIA, APPROVING PRECISE
DEVELOPMENT PLAN/PLANNED DEVELOPMENT PERMIT NO.
01-10 FOR TYCOM'S SUBMARINE FIBER OPTIC CABLE
PROJECT AND FINDING THAT THE LEASE AGREEMENT FOR
TYCOM'S USE OF CITY OWNED PROPERTY IS CONSISTENT
WITH THE CITY'S GENERAL PLAN.**

**THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH HEREBY FINDS ORDERS
AND RESOLVES AS FOLLOWS:**

SECTION 1. On April 13, 2001, TyCom Global Networks Inc. (the "Applicant") filed an application for a Precise Development Plan/Planned Development Permit for a submarine fiber optic cable system to be located on city owned property (the "Project") and on June 14, 2001 the application was deemed complete and has since been revised from two cable landing points (one at Longfellow Avenue and one at Second Street) to have only one cable landing point at Second Street that utilizes the direct burial approach for installation of the beach segment of the Project.

SECTION 2. The City prepared an Initial Study for the Project pursuant to Section 15063 of the State Guidelines implementing the California Environmental Quality Act ("CEQA"). The Initial Study concluded that there was substantial evidence that the Project might have a significant environmental impact on several specifically identified resources and governmental services..

SECTION 3. Pursuant to State CEQA Guidelines Sections 15064 and 15081, and based upon the information contained in the Initial Study, a decision was made to prepare an Environmental Impact Report ("EIR") for the Project. A Notice of Preparation of a Draft Environmental Impact Report ("DEIR") was prepared for the Project and sent to the State Clearinghouse in the office of Planning and Research for the State of California (EIR assigned number *SCH No. 2001 061111*) and to other responsible, trustee, and/or interested agencies and persons. The City contracted with an independent consultant for the preparation of the EIR.

SECTION 4. The findings made in this Resolution are based upon the information and

evidence set forth in the EIR and upon other substantial evidence that has been presented in the record of this proceeding. The documents, staff reports, plans, specifications, and other materials that constitute the record of proceedings on which this Resolution is based and the EIR for the Project are on file and available for public examination during normal business hours in the Community Development Department of the City of Hermosa Beach, 1315 Valley Drive, Hermosa Beach, California 90254. The custodian of said records is the Community Development Director of the City of Hermosa Beach.

SECTION 5. Pursuant to Section 65402 of the Government Code, Restriction on the Acquisition and Disposal of Real Property, the City shall not lease any real property until the location, purpose and extent of such disposition has been submitted to and reported upon by the Planning Commission as to the conformity of the lease with the adopted General Plan or part thereof.

SECTION 6. The Planning Commission held duly noticed public hearings on November 20, and December 5, 2001 to consider recommending to City Council to approve PDP No. 01-10 and to find that the lease agreement is consistent with the City's General Plan.

SECTION 7. The City Council held a duly noticed public hearing on December 11, 2001 to consider approval of PDP No. 01-10 and to find that the lease agreement is consistent with the City's General Plan. Having heard and considered all oral and written testimony, including staff reports, the Final Environmental Impact Report and all relevant evidence and argument, the City Council hereby finds as follows:

- H. The fiber optic cable project will be located on city owned property and within the public right-of-way.
- I. The beach segment of the proposed Project is consistent with the General Plan designations for "OS" (Open Space) and the remaining segments are within public right-of-way or the ocean and thus have no General Plan designation.
- J. As conditioned, the fiber optic cable project will conform to all applicable zoning regulations.

K. The recommended terms of the lease would be for a period of twenty-five years and cover the installation, maintenance, operation and retirement of the fiber optic cable project. The City would receive compensation for the use of city property based on the appraised fair market value of the land and its' locations. The City will direct those funds to beach related public improvements. These revenues would be used to offset the City's current costs to maintain and/or renovate the beach, storm drains, adjacent streets, walkways, public parking areas, the lifeguard building on the pier and the pier itself. It will also allow the City to have funds to upgrade the three beach bathrooms, plus construct one new bathroom near the pier. The lease will also cover TyCom's obligation to fund the implementation the mitigation monitoring program and City inspection costs during construction. In additional, the revenues generated and the use of those revenues are consistent with the terms of the grant for the use of Trust lands, which in this case is seaward of mean high tide and that the lease is sufficient to offset the temporary loss of the beach during construction and the use of city property for the life of the lease.

L. The proposed project and lease agreement for TyCom's use of the City owned property, is in conformance with the goals of the General Plan that call for:

- The protection of public recreation areas, in that compensation, via the lease agreement, will be provided to the City to offset the temporary loss of the use of the beach and will used to enhance access to and improvements for the beach. Installation is proposed to occur prior to the peak summertime usage to minimize the impacts on the beach-going public. This project will not diminish the amount of public open space and natural resources available to the City. With full mitigation and the recommended conditions of approval, the project is considered consistent with the Open Element of the City's General Plan.
- The Land Use Element seeks to minimize conflicts between nonresidential land uses and residential properties, in that the Land Use Element does allow appropriate private interests to lease public facilities and properties. The fiber optic cables will be buried on the beach and in the street or greenbelt and therefore, will not create any adverse aesthetic or land use impacts, and following installation, will not create any noise, light, vibration or smell.

- The prohibition of commercial development in open space areas that would adversely affect public use and the natural environmental benefits, in that this fiber optic cable project is considered a public facility, public utility/structure and a public corridor under the FCC and not a commercial development.
- Preserving and enhancing the environment and the natural resources, including the ocean and City beaches, in that the fiber optic cables will be buried on the beach the street or greenbelt, and either buried or laid on the sea floor, therefore the presence of these fiber optic cables will not be in conflict with the goals of the General Plan and Zoning Ordinance relating to preserving open space or protecting the beach and ocean as a natural resource.
- Reducing and minimizing the various sources of noise, in that the City has restricted the hours of construction to 8 a.m. to sunset, Monday through Friday for construction on the beach and imposed conditions to implement operational constraints such as operating one piece of equipment at a time when on the beach.
- Minimizing the intrusion of traffic and parking into the residential areas, in that a traffic and parking control plan is required from TyCom to be reviewed and approved by the City prior to construction. The traffic and parking control plan includes ensuring emergency access is maintained, that residents and businesses are to be provided advance notification of construction or parking that may be temporarily displaced, requirements for off-site staging areas of equipment, and hours of work in the rights of way to be approved by the City.
- Maintaining bike paths and pedestrian ways, in that all bike and pedestrian ways will be maintained during construction and any temporary detours required are safe and convenient.

M. The proposed Project is consistent with the goals and objectives of the Draft Local Coastal Plan, in that the amendments to the Land Use Plan in the Draft Local Coastal Program (LCP) address three main categories: parking and access, coastal recreation access, and coastal development. As proposed and mitigated, the project would be consistent with the City's Draft LCP.

N. The City Council has independently reviewed and certified a project Environmental Impact Report ("the EIR") (State Clearinghouse No. 2001 061111) and Mitigation Monitoring Program in

conformance with the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines (Title 14, California Code of Regulations Section 15000 et seq.) through the adoption of this Resolution. Because the EIR identified significant unavoidable environmental impacts (even with recommended mitigation) from the project relating specifically to air quality emissions from vessels during the installation of the ocean segment, the City Council balanced the benefits of the proposed project against the unavoidable risks and certified the FEIR and adopted a statement of overriding considerations relating to air quality pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093 (a).

SECTION 8. Based upon the foregoing findings, the City Council hereby:

5. Approves the Precise Development Plan/Planned Development Permit No. 01-10, deemed complete on June 14, 2001, and as revised, subject to the following conditions and the mitigation measures summarized below, (with the complete list of requirements for each applicable Mitigation Measure detailed in the EIR) and the Mitigation Monitoring Program attached hereto and incorporated within as Exhibit No. 1.
6. Finds that the lease agreement between the City of Hermosa Beach and TyCom submarine fiber optic cable project is consistent with the City’s General Plan.

A. PLAN, DEVELOPMENT AND USE REQUIREMENTS

1. The construction and continuing use of the Project shall conform to the applicable submitted plans and the Mitigation Monitoring Program reviewed and approved by the City Council for a single landing site at 2nd Street, utilizing direct burial method of installation and the requirement that the grounding beds on the beach be located a minimum of 100 feet from the nearest residential property line. Any minor deviations from the approved plans relating to construction staging areas or alignments shall be reviewed and may be approved by the Community Development Director.

2. Prior to issuance of construction permits, project plans shall be reviewed and approved by the Community Development Department and Public Works Department for consistency with the applicable plans reviewed and approved by the Planning Commission and City Council.
 3. Prior to issuance of construction permits, the lease shall be fully executed for use of city owned property in connection with the Project.
 4. Prior to issuance of construction permits, TyCom shall provide evidence to the City of Hermosa Beach that all required permits from other applicable permitting agencies have been obtained.
 5. Design, construction, and continuing use of the Project shall comply with all requirements of the City, including, but not limited to Public Works and Fire Departments.
 6. Pursuant to Section 17.50 of the Zoning Code, the Precise Development Plan/Planned Development Permit shall be null and void within eighteen months from the date of execution of the lease agreement unless construction permits have been obtained.
- B. LAND USE/MARINE USE/RECREATION (*see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures which are summarized below*)
7. Pursuant to Mitigation Measure #MU/LU/R-1: TyCom shall keep its Notice to Mariners current by providing written update notices to the Commander, Eleventh Coast Guard District, 501 West Ocean Boulevard, Long Beach California 90802, every two weeks during project installation.
 8. Pursuant to Mitigation Measure #MU/LU/R-2: Similar to the Notice to Mariners, TyCom shall provide notice to Department of Conservation, U.S. Navy, California Coastal Commission

(CCC), and the Cities of Hermosa Beach and Redondo Beach two weeks before commencement of marine cable installation.

9. Pursuant to Mitigation Measure #MU/LU/R-3: After the marine alignments have been installed, TyCom shall submit as-laid plans, including depth of burial from the mean high tide to 1,800-meter water depth, to the Department of Conservation, U.S. Navy, CCC, and the Cities of Hermosa Beach and Redondo Beach.
10. Pursuant to Mitigation Measure #MU/LU/R-4: Every 18 months for the life of the project, or at a modified frequency if authorized by the CCC, TyCom shall survey the marine alignments from mean high-water line to the 1,200-meter seawater depth mark to verify that the alignments have remained buried consistent with the as-laid plans detailed in Mitigation Measure #MU/LU/R-3.
11. Mitigation Measure #MU/LU/R-5: Ninety days before taking the marine cables out of service or expiration of the submerged land lease or permits with Hermosa Beach, TyCom shall apply for amendments to all applicable marine permits to retire, abandon, or remove the cable. (see DEIR for more requirements and requirements and detailed discussion)
12. Pursuant to Mitigation Measure #MU/LU/R-6: TyCom shall protect public safety by preventing public access to the marine construction zone by using barriers, buoys, or other controls in a manner approved by the CCC or other applicable permitting agency.
13. Pursuant to Mitigation Measure #MU/LU/R-7: TyCom's payments to the City pursuant to the lease shall, in part, compensate the City of Hermosa Beach for the displacement of the beach and use of public property by providing monetary compensation to fund beach-related improvements, reimbursement of costs for City inspections and other terms identified in the lease.

14. Pursuant to Mitigation Measure #MU/LU/R-8: TyCom shall schedule the construction of the project to avoid construction during peak summer use of the beach and in areas where access to the beach would be affected, unless otherwise authorized by the City and CCC.
15. Pursuant to Mitigation Measure #MU/LU/R-9: TyCom shall submit a plan to the City of Hermosa Beach Community Development Director and Public Works Directors for City and CCC approval showing how TyCom will ensure that the cable stays buried in the shoreline area such that it won't impact beach users. In the event the cable becomes exposed, TyCom shall initiate actions to rebury the cable in a manner and time frame approved by the Director of Public Works.

In addition, TyCom shall maintain adequate slack in the cable pay out of the manhole during the initial installation, in the event the cable later becomes exposed on the beach, along the shoreline or out a distance comparable to the end of the pier and reburial of the cable is required.

The City, at its discretion, shall have the ability to require TyCom to rebury the cable at the lowest sand migration period of the year to ensure future exposure of the cable is minimized. Prior to reburial, a reburial plan shall be submitted to the City for review and approval and TyCom shall obtain all required applicable permits.

16. Pursuant to Mitigation Measure #MU/LU/R-10: TyCom shall submit detailed engineering (plan, profile and cross section) as-laid plans of the nearshore and beach areas (30 meter sea water depth mark to the western edge of The Strand) along the cable alignments including depth of burial to the CCC, County of Los Angeles Lifeguards and Hermosa Beach. The cable location shall be recorded to national map standard accuracy.
17. Pursuant to Mitigation Measure #MU/LU/R-11: TyCom shall fence the staging areas and cover the fence with screening acceptable to the Community Development Director to prevent public access and reduce the visibility of construction activities.

18. Pursuant to Mitigation Measure #MU/LU/R-12: TyCom shall provide written notice to the City of Los Angeles, City of El Segundo, City of Lawndale, City of Manhattan Beach, City of Redondo Beach, and City of Torrance one month prior to the commencement of construction to alert these municipalities that a portion of the beach will be closed, the length of time it will be closed and to provide a telephone number for answers to questions regarding the project.
19. Pursuant to Mitigation Measure #MU/LU/R-13: A week before preparation of staging and construction areas, TyCom shall relocate any affected existing municipal facilities on the beach as directed by the City.
20. Pursuant to Mitigation Measure #MU/LU/R-14: One month before commencement of construction, TyCom shall coordinate with the Caltrans, County of Los Angeles Lifeguards and Hermosa Beach to provide signage along the Pacific Coast Highway, Hermosa Avenue, Longfellow Avenue, Second Street, Pier Avenue and at the beach, to alert visitors that a part of the beach will be closed, the length of time it will be closed and a telephone number for answers to questions regarding the project. Notice will also be given to local residents through announcement in The Beach Reporter and on the City of Hermosa Beach's website.
21. Pursuant to Mitigation Measure #MU/LU/R-15: TyCom shall ensure that access to The Strand is not disrupted for more than 4 hours at any location. Detours to maintain access will be marked and designed to protect public safety in a manner approved by the Director of Public Works.
22. Pursuant to Mitigation Measure #MU/LU/R-16: Before initiating construction, TyCom shall coordinate with Hermosa Beach and provide signage along the length of all affected roads to advise bicyclists of the temporary construction and the estimated period of construction along these routes in a manner approved by the Director of Public Works.

23. Pursuant to Mitigation Measure #MU/LU/R-17: During construction of segments at pedestrian or bike paths, the construction crews will keep all construction equipment and trenching equipment off the paved roadway or it will be maintained to the maximum extent feasible to allow bicyclists to continue to use the road or detours. Otherwise, alternate routes may be required in a manner and location approved by the Director of Public Works.
 24. Pursuant to Mitigation Measure #MU/LU/R-18: During construction when equipment is located in the roadway, the project applicant shall provide flag persons to guide pedestrian, bicyclists and motor vehicles past the construction zone required in an manner and location approved by the Director of Public Works.
 25. Pursuant to Mitigation Measure #MU/LU/R-19: Upon completion of construction, the project applicant shall repair all pedestrian bicycle lanes and roadways that have been damaged by the construction process to City standards (or other jurisdictional standards such as the Caltrans if applicable) in an manner and location approved by the Director of Public Works.
 26. Pursuant to Mitigation Measure #MU/LU/R-20: TyCom shall maintain access to neighborhood businesses, including parking lots, at all times during project construction in an manner approved by the Director of Public Works.
- C. GEOLOGY/SOILS/MINERAL RESOURCES *(see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures, which are summarized below)*
27. Pursuant to Mitigation Measure #G-1: All components shall be built to City-approved standards, incorporating appropriate seismic design standards.
 28. Pursuant to Mitigation Measure #G-2: If any alterations are made to the route aligning within 50 feet of any oil and gas wells, the wells should be identified and flagged in the field so that all

construction activities will avoid them. If the route collides with a well, the immediate area will be evacuated and flagged off. CDC, Division of Oil and Gas, will be notified immediately. The construction supervisor will initiate consultation with the division for remedial operations. In the event of collision with a well outside the 3 statute mile line, the Mineral Management Service will be contacted.

29. Pursuant to Mitigation Measure #G-4: Trench backfilling shall begin immediately after the cable is placed in the trench. Backfill material will be compacted to eliminate erosion and sand settlement in conformance with the specifications of the City of Hermosa Beach, in a manner approved by the Hermosa Beach Director of Public Works and when in the City of Redondo Beach in a manner approved by the Redondo Beach Director of Public Works.

D. WATER RESOURCES *(see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures, which are summarized below)*

30. Pursuant to Mitigation Measure #W-1: TyCom shall have a shipboard oil pollution emergency plans (SOPEPs) for their installation, repair, and monitoring. The SOPEPs shall comply with International Convention for the Prevention of Pollution from Ships (MARPOL) Annex 1.
31. Pursuant to Mitigation Measure #W-2: The primary work vessel shall carry on board a minimum of 122 m. (400 feet) of sorbent boom, five bales of sorbent pads at least 45cm by 45cm (18 inches by 18 inches) square and a small powered boat for rapid deployment to contain and clean up any small spill or sheen on the water surface.
32. Pursuant to Mitigation Measure W-3: Proposed marine activities shall not require the exchange of ballast in waters less than 22.2 kilometers off-shore (12 nautical mile [(nm)]). Ballast water management, record keeping and reporting shall be in compliance with applicable MARPOL and USCG regulations.

33. Pursuant to Mitigation Measure W-4: TyCom related vessels shall not discharge untreated sewage into marine waters less than 22.2 kilometers off-shore (12 nautical miles). Vessels must be equipped to collect and contain or treat sewage wastes. Vessels shall not discharge untreated bilge water to the marine waters less than 22.2 kilometers off-shore (12 nautical miles). Treatment and handling of sewage, bilge water, and deck drainage shall be in accordance with applicable MARPOL and USCG regulations.
 34. Pursuant to Mitigation Measure W-5: All TyCom work vessels shall maintain a logbook to keep track of all debris created by objects of any kind that may fall into waters within the jurisdictional areas of permitting agencies. Types, date, time, and location of debris that enters water during offshore operations shall be documented to facilitate identification and location of debris for debris recovery and site clearance verification.
 35. Pursuant to Mitigation Measure #W-6, TyCom will development and implement SWPPP that identifies BMP's to be used during construction.
- E. MARINE BIOLOGICAL RESOURCES (*see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures, which are summarized below*)
36. Pursuant to Mitigation Measure #MB-1: If the intertidal beach work occurs between March and August, a biologist will monitor the beach within 30 meters (98 feet) of each cable landing site.
 37. Pursuant to Mitigation Measure #MB-2: TyCom has agreed to pay the established fees for actual impacts that result in mortality of slow growing organisms that take longer than one year to recover within the jurisdictional boundaries of the permit authorities.

38. Pursuant to Mitigation Measure #MB-3: Monitors will be on board to watch for marine mammals.
39. Pursuant to Mitigation Measure #MB-4: Support vessels shall make every effort to maintain a distance of 1,000 feet from sighted whales and other threatened or endangered marine mammals and sea turtles.
40. Pursuant to Mitigation Measure #MB-5: Support vessels shall not cross in front of migrating whales.
41. Pursuant to Mitigation Measure #MB-6: When paralleling whales, support vessels shall operate at a constant speed that is not faster than the whales.
42. Pursuant to Mitigation Measure #MB-7: Female whales shall not be separated from their calves.
43. Pursuant to Mitigation Measure #MB-8: Support vessels shall not be used to herd or drive whales.
44. Pursuant to Mitigation Measure #MB-9: If a whale engages in evasive or defensive action, support vessels shall drop back until the animal calms or moves out of the area.
45. Pursuant to Mitigation Measure #MB-10: Collisions with marine mammals or sea turtles shall be reported promptly to the applicable federal and state agencies, pursuant to each agency's reporting procedures.
46. Pursuant to Mitigation Measure #MB-11: TyCom shall bury the marine fiber-optic cable in accordance with the Project Description for direct burial, and as required by the City of Hermosa Beach CCC to reduce the probability that fishing gear will become snagged.

47. Pursuant to Mitigation Measure #MB-13: TyCom shall rebury any cable that becomes exposed after installation for any reason (e.g., fishing gear snags, cable repair, or shifting sediments) in a manner approved by the Director of Public Works and the CCC. Also see other applicable Conditions of approval above.
 48. Pursuant to Mitigation Measure #MB-14: TyCom shall attempt to retrieve lost fishing gear attributable to TyCom's facility and as required by the CCC.
 49. Pursuant to Mitigation Measure #MB-15: To reduce the potential for interference, four biologists familiar with sea turtle basking behavior will be on the cable lay or support vessel to watch for sea turtles that approach the project area during operations. If an individual approaches the work area, the monitor will have the authority to cease operations (stop the vessel) until the animal leaves the area.
- F. FISHERIES (*see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures, which are summarized below*)
50. Pursuant to Mitigation Measure #F-1: TyCom shall advise commercial and recreational fishermen of a definite work schedule two weeks in advance of installation.
 51. Pursuant to Mitigation Measure #F-2: TyCom shall bury the entire marine cable 1 meter below the seafloor for areas where the water depth is less than 1,200 meters, except where the bottom features prevent burial or as required by the CCC.
 52. Pursuant to Mitigation Measure #F-3: Unless otherwise permitted by CCC, TyCom will inspect the route immediately following installation, every 18 months thereafter and after events that affect the cable for the life of the cable to ensure it remains buried.

53. Pursuant to Mitigation Measure #F-5: Commercial fishers shall be compensated for fishing gear (including anchors) that is damaged or lost during installation or becomes snagged on the marine cables attributable to TyCom's facility.
54. Pursuant to Mitigation Measure #F-6: TyCom shall attempt to retrieve lost fishing gear attributable to TyCom's facility immediately.
55. Pursuant to Mitigation Measure #F-7: TyCom shall hold Fishers harmless for unintentional damage to a buried cable.

G. TERRESTRIAL BIOLOGICAL RESOURCES *(see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures, which are summarized below)*

56. Pursuant to Mitigation Measure #TB-1: Measures shall be implemented to further minimize impacts to common wildlife, including covering or fencing holes or trenches, and monitoring construction area for trapped wildlife.
57. Pursuant to Mitigation Measure #TB-2: If construction occurs in the greenbelt between March and August (i.e., the period covering the nesting seasons of Cooper's hawks, American kestrels, red-shouldered hawks, red-tailed hawks, and peregrine falcons), TyCom shall conduct preconstruction raptor surveys. If active nests are identified, a no-construction zone will be established around the nest.

H. CULTURAL RESOURCES *(see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures, which are summarized below)*

58. Cultural Resources Pursuant to Mitigation #CR-1: TyCom shall conduct enhanced monitoring for all soil-disturbing activities from Fifth Street south to the TyCom Cable Station, in an manner approved by the Director of Community Development and Director of Public Works.
59. Cultural Resources Pursuant to Mitigation #CR-2: TyCom shall conduct standard archaeological monitoring for all soil-disturbing activities north of Fifth Street in Hermosa Beach, in an manner approved by the Director of Community Development.
60. Cultural Resources Pursuant to Mitigation #CR-3: TyCom shall conduct additional marine surveys and to avoid any features identified during the survey that could be cultural resources of potential significance, in an manner approved by the Director of Community Development.
61. Cultural Resources Pursuant to Mitigation #CR-4: The additional survey identified in #CR-3, above, will cover about 10% of the total distance of the routes, including nearshore areas where most shipwrecks would be expected. If that survey does not reveal potential shipwrecks that were not already identified by sidescan sonar no further surveys would be required. If, however, the survey reveals potential shipwrecks that were not already identified by the sidescan sonar, then the entire portions of the route where the water depth is less than 1,200 meters would have to be surveyed with a magnetometer. If features are identified that could be cultural resources of potential significance, TyCom shall reroute the cable(s) and avoid the identified feature(s) by at least 100 meters in an manner approved by the CCC.
- I. NOISE (*see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures which are summarized below*)
62. Pursuant to Mitigation Measure #N-1: TyCom shall limit construction to 8 a.m. to sunset, Monday through Friday for the beach segment of the Project; and for the other segments of the project, as permitted by the approved by the Director of Public Works and the CCC.

63. Pursuant to Mitigation Measure #N-2: For the beach segment of the Project, TyCom will implement operational constraints, to the extent feasible, such as operating only one piece of equipment at a time, and shutting it off when not in use.
 64. Pursuant to Mitigation Measure #N-3: TyCom shall notify residences and commercial buildings adjacent to proposed construction by mail at least 2 weeks prior to construction.
 65. Pursuant to Mitigation Measure #N-4: Prior to construction, TyCom shall prepare a plan containing noise control measures for construction equipment and submit it to the cities of Hermosa Beach and Redondo Beach for review and approval. This plan will detail how the equipment noise will be muffled.
- J. TRANSPORTATION (*see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures which are summarized below*)
66. Pursuant to Mitigation Measure #T-1: TyCom shall notify the Public Works Department, Fire Department, Police Department, medics, and school bus garage of Hermosa Beach, Redondo Beach, and Manhattan Beach, before operations so that they may re-route emergency and service vehicles around the construction zones.
 67. Pursuant to Mitigation Measure #T-2: Delivery of construction materials to individual work sites on state highways and city streets shall be conducted during off-peak commute hours (before 7:30 a.m. and after 9 a.m., and before 5 p.m. and after 7 p.m.).
 68. Pursuant to Mitigation Measure #T-3: The contractor shall prepare and submit traffic control plans prepared in accordance with Caltrans and city guidelines to the Cities of Hermosa Beach

and Redondo Beach for review and approval before beginning construction. Copies of the traffic control plans shall be on-site during construction.

69. Pursuant to Mitigation Measure #T-4: All business and residences that would be directly affected by a blocked driveway or loss of parking will be provided with advance notification from TyCom of one week as to when the access and/or parking will be blocked.
70. Pursuant to Mitigation Measure #T-6: During non-working hours, the contractor for TyCom will keep the existing traffic lanes clear for traffic without interference from the operations, equipment, and materials in a manner approved by the Director of Public Works.
71. Pursuant to Mitigation Measure #T-7: TyCom shall submit a Parking Plan to the City of Hermosa Beach, subject to the review and approval by the Public Works Director.
72. Pursuant to Mitigation Measure #T-8: TyCom shall provide “A Notice to Mariners” that will be issued two weeks before construction.
73. Pursuant to Mitigation Measure #T-9: TyCom shall notify USCG of dates of construction, and potential dates of crossing traffic lanes.
- K. *AIR QUALITY (see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures which are summarized below)*
74. Air Quality Pursuant to Mitigation Measure #A-1: TyCom shall implement at least one of the reasonably available control measures specified in SCAQMD Rule 403 to minimize fugitive dust impacts. Measures to minimize this impact may include using water on a periodic basis on uncovered stockpiles or cleaning the tires of work vehicles to limit the amount of dirt tracked on to streets.

75. Pursuant to Mitigation Measure #A-2: TyCom shall use best available control technology for construction equipment (CBACT) for options One and Four only out to three nautical miles only as further described in the EIR.
76. Pursuant to Mitigation Measure #A-4: TyCom shall acquire emission credits out to three nautical miles only to further reduce NOX and SO2 emissions.
77. Pursuant to Mitigation Measure #A-5: TyCom shall use ARB on-road diesel fuel to reduce ROC emissions for terrestrial vehicles only.
78. Pursuant to Mitigation Measure #A-6: TyCom shall implement a comprehensive maintenance program for vessel diesel engines, to reduce CO emissions.
79. Pursuant to Mitigation Measure #A-7/A7a: TyCom shall use clean diesel fuel having a maximum sulfur content of 15 ppm, or acquire emission credits out to three nautical miles only.
- L. HAZARDOUS MATERIAL AND RISK OF UPSET (*see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures, which are summarized below*)
80. Pursuant to Mitigation Measure #H-1: TyCom shall prepare a Spill Prevention and Contingency Plan (SPCP) for construction activities. The SPCP plan will be submitted to the Hermosa Beach Fire Department for approval prior to issuance of the City's construction permit.
81. Pursuant to Mitigation Measure #H-2: Before construction begins, site workers will be trained to recognize and respond to spills in accordance with the SPCP plan and which authorities to contact. Construction crews shall have an emergency spill kit containing sorbent booms and pads, personal protective equipment (PPE), and emergency response guidance.

82. Pursuant to Mitigation Measure #H-3: Construction equipment used by TyCom shall be maintained and kept in operating condition to reduce the likelihood of line breaks and leakage.
83. Pursuant to Mitigation Measure #H-4: Absorbent material or drip pans shall be placed underneath TyCom related vehicles during equipment maintenance or refueling. Refueling may take place on the beach, but only within a designated and contained refueling area as approved by the City and the CCC. Any refueling shall be conducted at least 30.5 meters (100 feet) away from the mean high tide.
84. Pursuant to Mitigation Measure #H-5: TyCom shall ensure all hazardous materials used at the staging area shall be stored in the proper storage containers and shall have sufficient secondary containment to contain any potential spill.
85. Pursuant to Mitigation Measure #H-6: TyCom shall ensure all human waste at the construction area be disinfected. Portable chemical toilets will be used.
86. Pursuant to Mitigation Measure #H-7: The Cable Station's underground diesel storage tank and the piping will be installed and operated in compliance with applicable state and federal regulations.
87. Pursuant to Mitigation Measure #H-8: TyCom shall ensure all hazardous waste generated through maintenance activities, or if a spill occurs during construction, will be disposed of according to appropriate State and federal regulations.
88. Pursuant to Mitigation Measure #H-9: The TyCom construction crew shall be informed of the types of hazardous substances that could be encountered and the indicators of the contaminants.

89. Pursuant to Mitigation Measure #H-10: If hazardous substances are encountered, the appropriate agencies shall be immediately notified to determine further courses of action. Installation work shall not resume until it is determined by the local regulatory agencies that installation shall not create an adverse impact to human health.
90. Pursuant to Mitigation Measure #H-11: TyCom's construction contractor shall develop and implement a Health and Safety Plan (HSP) consistent with 29 CFR 1910 (OSHA Occupational Safety and Health Standards) and 29 CFR 1926 (OSHA Safety and Health Regulations for Construction).
91. Pursuant to Mitigation Measure #H-12: The TyCom construction crew will be trained on safety measures regarding trenching and excavation, work zone CPR, spill prevention, and driving safety.
92. Pursuant to Mitigation Measure #H-14: TyCom contractors will receive training regarding the proper handling and/or storage of potential fire hazards, potential ignition sources (such as smoking or sparking equipment), and appropriate types of fire protection equipment.
93. Pursuant to Mitigation Measure #H-15: TyCom shall identify all utilities before construction, using utility locator services.
94. Pursuant to Mitigation Measure #H-16: As described in Section 16.1.5 of the EIR, other mitigation measures detailing construction offsets will be required if utilities are encountered and notification of the proper authorities if a utility is damaged.
95. Pursuant to Mitigation Measure #H-17: The Cable Station will be equipped with an automatic protection system to prevent power surges.

96. Pursuant to Mitigation Measure #H-18: Before entering the project area, the vessel will notify USCG, which will issue a Notice to Mariners to alert marine users in the area of the project activity.
97. Pursuant to Mitigation Measure #H-19: A Shipboard Oil Pollution Emergency Plan (SOPEP) will be developed and implemented before the cable vessel enters the project area for installation, repair, and monitoring.
98. Pursuant to Mitigation Measure #H-20: A critical operations and curtailment plan will be developed and implemented to delineate and maintain safe operating conditions aboard the cable-lay vessel. This plan will specify the appropriate wind and sea conditions for the operation of the vessel, will refer to the appropriate personnel and evaluation procedures, and will require adherence to the ship's oil spill response plan.
99. Pursuant to Mitigation Measure #H-21: The primary work vessel shall carry on board a minimum of 122 m. (400 feet) of sorbent boom, five bales of sorbent pads at least 45cm by 45cm (18 inches by 18 inches) square and a small powered boat for rapid deployment to contain and clean up any small spill or sheen on the water surface.
100. Pursuant to Mitigation Measure #H-22: A local on-water response vessel, an oil spill response organization (OSRO) located in Los Angeles, will be placed on standby during installation.
101. Pursuant to Mitigation Measure #H-23: Standard safety measures shall be incorporated into vessel operating procedures and confirmed by the safety certificate issued by USCG to limit the risk of fire and explosion to a less-than-significant level. (see DEIR for more requirements and detailed discussion)

- M. PUBLIC UTILITIES AND SERVICES (*see the Mitigation Monitoring Program and EIR for a complete list of requirements associated with each of the following mitigation measures, which are summarized below*)
102. Measure #PU/S-1: Prior to issuance of construction permits, TyCom shall disseminate information to the fire, police, and public works departments in Hermosa Beach, Redondo Beach, and Manhattan Beach to notify them of construction on affected roads.
103. Pursuant to Mitigation Measure #PU/S-2: TyCom shall work with local police and fire departments and utility service providers, and prepare and implement an Emergency Response Plan. This plan shall include provisions for a confined space rescue team.
104. Pursuant to Mitigation Measure #PU/S-3: Prior to issuance of construction permits, TyCom shall submit detailed maps of the proposed fiber optic cable route to utility providers and agencies. If the proposed route crosses existing utility lines, TyCom shall coordinate with utility providers and applicable agencies to determine the appropriate depth of fiber optic cable and construction method for installation, through the use of “Dig Alert” and other means approved by the Director of Public Works.
105. Pursuant to Mitigation Measure #PU/S-4: TyCom shall coordinate with utility providers, and have utilities located, and will pothole as necessary to avoid disrupting utilities, thereby minimizing the risk of accidental striking.
106. Pursuant to Mitigation Measure #PU/S-5: TyCom shall comply with State and Federal law concerning location of fiber optic cable relative to other utilities.
107. Pursuant to Mitigation Measure #PU/S-6: In the event of an accidental striking, TyCom will replace or repair any damaged utility lines, pipelines, or any other utility infrastructure.

108. Pursuant to Mitigation Measure #PU/S-7: TyCom shall ensure maintenance of at least 25 feet of beach access around the perimeter of the staging area for emergency vehicle access.
109. Pursuant to Mitigation Measure #PU/S-8: TyCom shall ensure that there will be no time lapse between the establishment of temporary lifeguard towers and the displacement of lifeguard towers at Longfellow Avenue and Second Street.
110. Pursuant to Mitigation Measure #PU/S-9: TyCom shall identify beach tower communication lines and avoid striking them during construction. TyCom shall relocate the lines with the lifeguard towers, so that communication and beach safety are maintained.
111. Pursuant to Mitigation Measure #PU/S-10: TyCom shall provide mock up designs of the proposed fencing around the beach construction area to the Los Angeles County Lifeguards to ensure that visibility from the lifeguard towers is maintained.

N. CONSTRUCTION & PHASING

112. Construction staging on the beach shall be as shown on approved project staging plans per the Project EIR for a direct burial method of installation. Requests for minor alternate construction staging shall be considered through written request to the Director of Community Development and Director of Public Works.
113. TyCom shall coordinate in the preparation of a Construction Operation Plan and Program. Said plan shall be reviewed and approved prior to the issuance of construction permits by the Director of Public Works. The plan shall incorporate the following:
 - Specifications for fencing of the site and construction staging areas evaluated to ensure maximum screening of views to site and aesthetic concerns.
 - Limitations on construction activities by date and hour.

- A scaled plan that depicts pedestrian circulation routes and demonstrates the maintenance of safe and open access to the beach, The Strand, and the greenbelt during project construction.
114. In order to avoid conflicts with special events held in the project area, construction on the site shall be suspended on certain days as determined appropriate by the City. The City shall retain the right to change or extend the dates when warranted to ensure that special events are not significantly impacted by project construction.
 115. No closure, either temporary or permanent shall be allowed on the existing public walkway known as The Strand, except as otherwise approved by the City (also see Condition no. 21 and MU/LU/R-15).
 116. TyCom shall include in its construction contract a clause which stipulates, to the satisfaction of the City Attorney, that the contractor will recycle materials used in construction to the extent feasible in order to divert construction waste from regional landfills.
 117. TyCom shall ensure that construction contractor's require employees to use off-street parking. Such remote parking shall remain in use until the completion of construction of the project.
 118. TyCom shall be responsible to restore all work within City streets and right of way to its pre-construction condition or better, in addition to slurry sealing (slurry seal and crack sealing) the entire width and length of the affected street, as well as, removal (grinding or sandblasting) and replacement of any traffic striping and pavement markers affected by the project construction, in a time and manner that has been reviewed and approved by the Public Works Department.

O. CERTIFICATIONS

119. An acceptance of conditions form shall be executed by TyCom and submitted to the Community Development Department prior to issuance of construction permits.
120. This grant shall not be effective for any purposes until TyCom has filed at the office of the Planning Division of the Community Development Department their affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.
121. The PDP and this Resolution shall be recorded, and proof of recordation shall be submitted to the Community Development Department.
122. Each of the above conditions is separately enforced, and if one of the conditions of approval is found to be invalid by a court of law, all the other conditions shall remain valid and enforceable.
123. TyCom shall defend with Counsel of the City's choosing, indemnify, and hold harmless the City, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employee to attack, set aside, void or annul this permit approval or any other proceeding or action taken pursuant to this permit. The City shall promptly notify TyCom of any claim, action, or proceeding and the City shall cooperate fully in the defense.
124. TyCom shall reimburse the City for any court and attorney's fees, which the City may be required to pay as a result of any claim or action brought against the City because of this grant.
125. The Project shall be developed, maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of TyCom to cease any development or activity not in full compliance shall be a violation of these conditions.
126. Pursuant to Code of Civil Procedure Section 1094.6, any legal challenge to the decision of the City Council must be brought within 90 days after the final decision by the City Council.

SECTION 9. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 11th day of December 2001.

President of the City Council and Mayor of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

(12-6-01)