7. IMPLEMENTATION

7.1 NATURAL COMMUNITY CONSERVATION PLAN & HABITAT CONSERVATION PLAN (NCCP/HCP)

The California Legislature enacted the NCCP Act in 1991 declaring that that "there is a need for broad-based planning to provide for effective protection and conservation of the state's wildlife heritage while continuing to allow appropriate development and growth." The NCCP provides a means of setting aside specific areas of habitat while permitting the "taking" of other areas of habitat. By taking a long-term regional view, rather than a project by project approach to this preservation and taking, there is improved opportunity for success in the preservation of species, endangered and otherwise.

In 1996, the County of Orange NCCP/HCP Central & Coastal Sub-region was established encompassing 208,000 acres (about 325 square miles), which includes the central portion of Orange County from the coastline to Riverside County. The City of Costa Mesa lies within the boundaries of this sub-region.

Within this sub-region, a habitat reserve system has been created, which identified 38,738 acres, which would remain as more or less undisturbed or re-established habitat. The reserve is in two separate areas: the Central sub-area in the vicinity of Irvine Lake running along Lomas Ridge, and the Coastal sub-area near Laguna Beach extending from Laguna Canyon Road to the coast. The County of Orange parklands along the Santa Ana River including Talbert Nature Preserve are included in this somewhat isolated part of the reserve. Fairview Park has 4,500 feet of boundary in common with Talbert Nature Preserve.

State and Federal Regulatory Framework

The regulatory framework within which the NCCP/HCP and the Joint EIR/EIS were prepared includes:

- the NCCP Act of 1991, which facilitates long-term regional protection of natural vegetation and wildlife diversity while allowing compatible land uses and appropriate development and growth.
- the March 30, 1993 listing of the coastal California gnatcatcher as a "threatened" species; the September 29, 1994 listing of the Pacific pocket mouse and the December 16, 1994 listing of the southwestern arroyo toad as "endangered" species under provisions of the Federal Endangered Species Act (FESA).
- the Special 4(d) Rule enacted by the Department of the Interior to encourage preparation of NCCPs by establishing the NCCP Act as a primary program for addressing the federal listing of the gnatcatcher.

The two agencies responsible for implementing the Endangered Species Acts are California Fish and Game(CDFG) and the U. S. Fish and Wildlife Service (USFWS). The County of Orange has been the lead agency in preparing the EIR. The USFWS has been the lead agency responsible for managing the preparation of the EIS.

When the NCCP/HCP Implementation Agreement was approved by the participating agencies and landowners on July 17, 1996, CDFG issued permits required by the California Endangered Species Act to allow the taking of specified areas of habitat.

Current Participants in the NCCP
The Central and Coastal Sub-region of the NCCP contains all or portions of 16 cities and unincorporated Orange County. The habitat reserve system is located in eight of these cities. The City of Costa Mesa is one of these cities due to the incorporation of Talbert Nature Preserve and the area around Talbert Pond.

The NCCP is directed by a non-profit corporation governed by a Board of Directors composed of representatives of major public and private landowners of Reserve lands, the USFWS, CDFG, local jurisdictions that are signatory to the Implementation Agreement and own lands within the Reserve System. The City of Costa Mesa would fall within the last category if they choose to sign the Implementation Agreement.

The current Board of Directors of the NCCP are representatives of the following entities:

U. S. Fish and Wildlife Service
California Department of Fish and Game
California Department of Parks and Recreation
County of Orange
Irvine Ranch Water District
Metropolitan Water District
Southern California Edison
Santiago County Water District
The Irvine Company
Transportation Corridor Agency
City of Irvine
University of California, Irvine
Chandis-Sherman
3 At-Large Directors
Ex-Officio Directors:
Coastal Greenbelt Authority
California Department of Forestry
Orange County Fire Authority

The Process for Incorporating parts of Fairview Park into the NCCP
The City of Costa Mesa may incorporate appropriate habitat restoration areas into the NCCP by signing the Implementation Agreement. Upon signing as a Local Government owning land within the Reserve System, the City of Costa Mesa will be entitled to a seat on the Board of Directors under section 5.1.2 of the agreement. The terms of the agreement call for the lands to remain in the Reserve System for a term of 75 years starting from July 1996.

City of Costa Mesa Responsibilities if becoming Signatory to the NCCP
Each city which signs the Implementation Agreement has the responsibility for conducting some or all of the following actions, depending on whether portions of their jurisdictions are included within the Reserve System or when "take" of Identified Species will occur within their jurisdiction per section 4.4.2 of the Implementation Agreement:

1. Consideration of amendments to the general plan, zoning, or other implementing ordinances to comply with state planning and zoning requirements, to officially designate the Reserve System.
2. Adopt fuel modification ordinances/standards consistent with the NCCP/HCP fuel modification policies (to be developed by CDF and OCFA) that will be applicable to areas bordering the Reserve System, and within Special Linkage Areas and Existing Use Areas.
3. Make best efforts to obtain conservation easements over privately owned lands within the Existing Use Areas owned by non-participating landowners. Should a change be

proposed in the future within the Existing Use Areas, local governments are to use their best efforts to exercise local land use authority consistent with the policies of the NCCP/HCP.

4. In cooperation with the appropriate reserve owner/manager, review project proposals within the Reserve System on lands, managed by the particular local government to assure consistency with the NCCP/HCP
5. Assure that the non-participating landowners provide evidence of payment of the Mitigation Fee to the NCCP Non-Profit Corporation where the landowner elects to use the mitigation fee option for Take of listed Coastal Sage Scrub species.
6. Record / Compile Identified Species, Coastal Sage Scrub species and Covered Habitats impacts within its jurisdiction annually reporting losses/mitigation to the County to enable the County, as lead agency to compile subregional data for transmittal to CDFG and the Service.
7. Ensure that NCCP construction related minimization measures (set forth in Chapter 7 of the NCCP/HCP EIR/EIS) are included as conditions of approval in Local Government actions approving development, which may result in Take of Coastal Sage Scrub species and ensure that such measures are enforced.
8. For those Local Governments owning land within the Reserve System, formally commit such lands to the Reserve System, and manage such lands in accordance with the NCCP/HCP
9. For those Local Governments owning lands within the Reserve System, serve as a member of the Board of Directors of the NCCP Non-Profit Corporation.
10. Accept and use the NCCP/HCP EIR/EIS as the CEQA program EIR, and commit to the coastal sage scrub and Identified Species and Covered Habitat mitigation requirements, while also recognizing the mitigation values of preservation of non-coastal sage scrub resources.

Permitted Uses within the NCCP Reserve

Per Section 5.3.3 of the agreement:

The following is a summary of the permitted uses in the Reserve System that shall constitute Planned Activities on the part of Participating Landowners and permitted uses on the part of the NCCP Non-Profit Corporation as more fully described and provided for in the NCCP/HCP:

- Adaptive Management Activities
  - monitoring target species and related habitat conditions
  - monitoring non-CSS and non-targeted species conditions
  - habitat enhancement, restoration and re-creation
  - other management activities designed to implement NCCP policies, objectives (e.g. cowbird trapping, Pacific pocket mouse propagation and weed abatement)
  - inventorying for non-target species.
- Habitat Mitigation Related to Take of Listed CSS Species outside of the Reserve System, consistent with the provisions of the NCCP/HCP
- Habitat mitigation for Take of non-CSS Species outside of the reserve system consistent with the NCCP/HCP and state and federal mitigation policies (e.g. wetlands, least Bell's vireo)
- Field research and field studies designed to further long-term protection of habitats and species included within the Reserve System owned by the participants.

- Fire management Activities Consistent with the NCCP/HCP and fire management plan
- Ongoing grazing activities consistent with the NCCP/HCP Grazing Plan
- Public access and recreation consistent with the provisions of the NCCP/HCP
  - recreation Management Program
  - passive recreation, including hiking, nature interpretation, picnicking
  - equestrian activities on designated trails, and designated new staging areas and facilities
  - mountain biking on designated trails
  - camping in designated locations
  - construction, operation, maintenance and concession activities associated with recreation facilities designated as permitted uses within the NCCP/HCP
  - pre-existing park facilities and uses within disturbed areas, provided that existing active facility expansions, or conversions of passive use facilities to active use must be consistent with the NCCP/HCP
  - within the Coal Canyon Ecological Reserve, public access and hunting as determined appropriate by CDFG
  - park and reserve administration and interpretive facilities
- Activities related to provision of those necessary infrastructure facilities identified in chapter 5 of the NCCP/HCP
  - consistent with the provisions of the NCCP/HCP, operation, maintenance, repair and reconstruction of existing infrastructure as depicted on figure 27 (of NCCP documents) or if not addressed by the NCCP/HCP otherwise a matter of public record
  - construction of those new infrastructure facilities identified in figure 28 (of NCCP documents) consistent with adopted County and city general plans and the provisions of the NCCP/HCP
  - ongoing operations and maintenance , repair and reconstruction activities related to the new infrastructure facilities, consistent with the provisions of the NCCP/HCP
  - emergency activities related to existing or new infrastructure facilities
- Existing uses consistent with Chapter 5.11 (Existing Use Policies) of the NCCP/HCP

Potential Advantages of Inclusion in the NCCP

1. There is the potential for obtaining funding through the NCCP Non-Profit Corporation for assistance in restoring habitat, which is a significant part of the park construction cost.
2. Being a part of the well-recognized NCCP program may be of assistance in attracting funding, grants or mitigation funds from other agencies or corporations for restoration of habitat/construction.
3. The master plan for the restoration areas would become protected from active development by the Reserve System commitments.
4. A possible smoothing or clarifying of the permitting process for park restoration and trail construction in the area of sensitive habitat.

Potential Disadvantages of Inclusion in the NCCP

1. Some restrictions on land use for included areas.
   The uses for the restored areas would be all passive uses and would be in compliance with the previously stated approved land uses. None of the stated goals for the use of these lands would be in any way restricted.
2. Obligations for maintaining and caring for the restored habitat areas.
   The City of Costa Mesa would make a commitment do this work in any case. There would be no obligations, which would be new due to inclusion in the NCCP.
3. The master plan for the included areas is committed for the duration of the NCCP agreement of 75 years. This item is also listed as a benefit of inclusion. There could be point of view that some flexibility for changing the habitat restoration areas to more active developed uses would be positive. The habitat areas of Coastal Bluff Scrub, Alluvial Scrub, and Vernal Pools with their surrounding Grassland are considered to be very sensitive. In the event an effort were to be made to convert these areas to more active park uses, it is likely that current federal and state regulations would prohibit this action. Mitigation funds have been used to restore portions of the vernal pools in 1996-97. These areas were committed to permanent restoration prior to consideration of the NCCP inclusion.

Recommendation for Inclusion of a Portion of Fairview Park in the NCCP
It is recommended that the areas of Fairview Park which this plan designates as passive use habitat restoration areas be included in the NCCP Reserve System.
These areas are:

Northwest lowland alluvial scrub, dunes, riparian scrub	41 acres
Western grasslands, vernal pools and bluffs	70 acres
Total area	111 acres

These area have been selected because they will contain habitat which is addressed by the NCCP and planned public use which is compatible with the guidelines of the NCCP.