RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA SETTING THE AMOUNT OF THE TRENCH CUT FEE ESTABLISHED PURSUANT TO ARTICLE III OF CHAPTER 33 OF THE SANTA ANA MUNICIPAL CODE AND ADDING SAID FEE TO THE MISCELLANEOUS FEE SCHEDULE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

A. Studies performed on streets in the cities of Austin, Kansas City, Burlington, Cincinnati, Los Angeles, Sacramento, Phoenix, and San Francisco, all have concluded that excavations in paved streets degrade and shorten the life of the surface of the streets.

B. The studies performed on streets in the cities of Los Angeles, San Francisco and Sacramento concluded that this degradation occurs no matter how well the excavation is restored.

C. In order to determine the extent to which the pavement degradation found by studies in other cities occurs in the City of Santa Ana (the “City”), the City retained Shahin and Associates to determine the effect of excavations on the surface of streets in the City.

D. The studies performed determined that even if pavement restoration in the trench itself is structurally adequate, excavations reduce the strength and life of the pavement.

E. The study performed by Shahin and Associates determined that the extra approximate cost to the City of performing repairs necessary to fully mitigate the damage that these trench cut excavations cause to the street surface would be at least $1,159,148 per year for arterial streets and $245,383 per year for local streets.

F. On September 17, 2001, the City Council introduced Ordinance No. NS-______, which if adopted would find that the entity making and benefiting from an excavation in City streets should be required to pay the
City a trench cut fee that partially recovers the cost of mitigating the damage caused to the street surface by the excavation.

G. City Municipal Code Sections 33-59 et seq., as amended by said Ordinance, requires that the trench cut fee be paid as a condition of obtaining a permit for excavation of right of way, and provides that the amount of the trench cut fee shall be established by resolution of the City Council.

H. Said Ordinance also finds and declares that because excavations cause the greatest damage to newly surfaced streets, and to provide an incentive to avoid excavations in newly surfaced streets wherever feasible, the trench cut fee should be highest for excavations in newly surfaced streets, and should decrease as the age of the street surface being excavated increases.

I. The City Council has reviewed the studies undertaken by the cities of Austin, Kansas City, Burlington, Cincinnati, Los Angeles, Sacramento, San Francisco and Phoenix concluding that excavations in paved streets degrade and shorten the life of the surface of the streets, and the City Council has reviewed the study performed by Shahin and Associates describing the damage and degradation caused to the pavement located adjacent to trenches excavated in paved City streets and calculating the estimated costs for all maintenance, repair or resurfacing that would be necessary to fully mitigate this pavement damage and degradation.

J. The City Council has considered the testimony and other information presented to the City Council regarding the basis for and the amount of the trench cut fee;

Section 2. The City Council finds, based on the study performed by Shahin and Associates, that the reasonable cost for all maintenance, repair or resurfacing that would be necessary to partially mitigate the damage and degradation that street excavations cause to the pavement located adjacent to the excavated trench is conservatively estimated at $13.68 per square foot of trench excavated for arterial streets and $9.27 per square foot of trench excavated for local streets.

Section 3. The trench cut fee authorized by Sections 33-59 et seq. of the Santa Ana City Code, as amended by Ordinance No. NS-_______, shall be in the amounts set forth in Exhibit A, which is attached hereto and incorporated by this reference herein.

Section 4. The fees herein established do not exceed but rather only partially recover the estimated reasonable costs of providing the maintenance, repair or resurfacing services that would be necessary to fully mitigate the degradation that excavations cause to the pavement located adjacent to the excavated trench, and such fees are established in
order to compensate and partially reimburse the City for the estimated reasonable costs of providing such services.

Section 5. Beginning July 1, 2002, at the commencement of each fiscal year, unless there is further action of the council this trench cut fee shall annually be increased by an amount equal to the change since the last increase in the Consumer Price Index For All Urban Consumers (“CPI-U”) for the Los Angeles-Riverside-Orange County region. Should a proposed CPI-U increase for any fiscal year not accurately reflect the increase in the City’s costs to undertake the program set forth in this Resolution and said Ordinance, then the Executive Director of the Public Works Agency, or designee is directed to place before the City Council a proposal to either (a) not increase the trench cut fee by the full change in the CPI-U, or (b) increase the trench cut fee by more than the change in the CPI-U.

Section 6. This Resolution shall take effect upon the effective date of Ordinance No. NS-____, and the Clerk of the Council shall attest to and certify the vote adopting this Resolution. Should said Ordinance not be adopted, or should said Ordinance not become effective, this Resolution shall be deemed null and void and of no further effect.

Section 7. That without further action of the City Council this trench cut fee shall be incorporated into the City’s Miscellaneous Fee Schedule.

ADOPTED this ______ day of ______________, 2001.

_______________________
Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Joseph W. Fletcher, City Attorney

By: _________________________
Benjamin Kaufman
Chief Assistant City Attorney
CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, PATRICIA E. HEALY, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2001-___ to be the original resolution adopted by the City Council of the City of Santa Ana on ______________.

Date: ________________

Clerk of the Council
City of Santa Ana
## TRENCH CUT FEE FEE SCHEDULE

### ARTERIAL STREET

<table>
<thead>
<tr>
<th>Description</th>
<th>Per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resurfaced between 0 and 5 years.</td>
<td>$13.68</td>
</tr>
<tr>
<td>Resurfaced between 6 and 10 years.</td>
<td>$12.11</td>
</tr>
<tr>
<td>Resurfaced between 11 and 15 years.</td>
<td>$11.39</td>
</tr>
<tr>
<td>Resurfaced between 11 and 15 years.</td>
<td>$ 9.11</td>
</tr>
</tbody>
</table>

### LOCAL STREET

<table>
<thead>
<tr>
<th>Description</th>
<th>Per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resurfaced between 0 and 5 years.</td>
<td>$ 9.27</td>
</tr>
<tr>
<td>Resurfaced between 6 and 10 years.</td>
<td>$ 8.24</td>
</tr>
<tr>
<td>Resurfaced between 11 and 15 years.</td>
<td>$ 7.74</td>
</tr>
<tr>
<td>Resurfaced between 16 and 20 years.</td>
<td>$ 6.98</td>
</tr>
<tr>
<td>Resurfaced between 21 and 25 years.</td>
<td>$ 6.21</td>
</tr>
</tbody>
</table>

**Fee Calculation:**

For the purpose of fee calculation, the minimum width of trench shall be deemed to be one foot.

“Arterial street” is as defined and designated in the Circulation Element of the City’s General Plan. A “local street” shall be, for purposes of this trench cut fee, all other streets which do not meet this definition and designation of “arterial streets.”
CERTIFICATE OF ORIGINALITY & PUBLICATION

I, JANICE C. GUY, Clerk of the Council, do hereby certify the attached Resolution No. _________ to be the original resolution adopted by the City Council of the City of Santa Ana on ________________.

Date: ______________  ______________________________

Clerk of the Council
City of Santa Ana