

ORDINANCE NUMBER O- 19320 (NEW SERIES)

ADOPTED ON OCT 11 2004

AN ORDINANCE AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 2, ARTICLE 6 BY ADDING NEW DIVISION 17, TITLED "FINANCIAL REPORTING OVERSIGHT BOARD" AND ADDING NEW SECTIONS 26.1701, 26.1702, 26.1703, 26.1704, 26.1705, AND 26.1706; AMENDING CHAPTER 2, ARTICLE 2, DIVISION 3 BY ADDING NEW SECTIONS 22.0302, 22.0303, AND 22.0304; AMENDING CHAPTER 2, ARTICLE 2 BY ADDING NEW DIVISION 41, TITLED "SECURITIES DISCLOSURE" AND ADDING NEW SECTIONS 22.4101, 22.4102, 22.4103, 22.4104, 22.4105, 22.4106, 22.4107, 22.4108, 22.4109, 22.4110, 22.4111, AND 22.4112; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 9 BY AMENDING SECTION 24.0911; AND AMENDING CHAPTER 2, ARTICLE 2, DIVISION 7 BY ADDING NEW SECTIONS 22.0708 AND 22.0709; ALL RELATING TO THE CITY'S FINANCIAL REPORTING AND DISCLOSURE

WHEREAS, on February 11, 2004, the City Council commissioned the law firm of Vinson & Elkins to review the City's disclosure practices from January 1996 through February 2004 and to investigate whether the City has failed to meet disclosure obligations concerning its funding of the San Diego City Employees Retirement System; and

WHEREAS, on September 16, 2004, a report was issued by Vinson & Elkins representing the culmination of a six month investigation [the Report]; and

WHEREAS, the Report describes disclosure deficiencies in the processes utilized by the City to provide information to the financial markets; and

WHEREAS, the Report contains recommendations including a proposed ordinance designed to improve the quality of the City's disclosures; and

WHEREAS on September 21, 2004, the City Council considered and accepted the Report and as a part of that action directed the City Attorney to return with the proposed ordinance for introduction; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 6 of the San Diego Municipal Code is hereby amended by adding a new Division 17, titled "Financial Reporting Oversight Board"; and by adding new sections 26.1701, 26.1702, 26.1703, 26.1704, 26.1705, and 26.1706, to read as follows:

**Article 6: Board and Commissions**

**Division 17: Financial Reporting Oversight Board**

**§ 26.1701 Purpose and Intent**

- (a) It is the purpose and intent of the City Council to establish a Financial Reporting Oversight Board to serve as an advisory body to the Mayor, City Council, and City Manager on matters that relate to achieving a high standard of quality in and efficacy of the City's financial reporting and disclosure practices, including but not limited to:
- (1) disclosures relating to the City's securities;
  - (2) disclosures relating to securities issued by the "related entities" as defined in San Diego Municipal Code section 22.1702;
  - (3) the selection of independent auditors;
  - (4) the conduct of audits;
  - (5) the operations of the Office of the City Auditor and Comptroller;
  - (6) the quality and efficacy of the City's financial reporting;

- (7) with respect to the City Auditor and Comptroller and the City Manager; the City's internal controls and procedures; and,
  - (8) with respect to the City Auditor and Comptroller, the City Manager, and the City Attorney, the quality and efficacy of the City's disclosure controls and procedures.
- (b) It is the intent of the City Council that a high level of public confidence shall be maintained in the quality of the City's disclosures and financial statements and that the Financial Reporting Oversight Board shall assist the City in ensuring that the process of selecting an independent auditor to the City is insulated from political considerations.
  - (c) The City Council recognizes that selecting the members of the Financial Reporting Oversight Board is likely to require some time, and it is the intent of the City Council that, if possible, the Financial Reporting Oversight Board shall be fully constituted and prepared to assume its duties as soon as possible but no later than April 15, 2005.

**§ 26.1702** Financial Reporting Oversight Board

- (a) Pursuant to City Charter section 43(a), there is hereby created a Financial Reporting Oversight Board consisting of three members. The members shall be appointed by the Mayor and confirmed by the City Council. Each of the members shall be a person of high moral character and integrity with extensive academic or professional experience in the fields of finance, accounting, or law, with at least one expert in accounting and at least one expert in federal securities law. The members shall not be

members of *related entities* as defined in section 22.4102 or any other board or commission of the City of San Diego

(b) The members shall serve terms of four years and each member shall serve until a successor is duly appointed and confirmed.

(1) Of the members appointed initially, one member shall serve a term of two years, and one member shall serve a term of three years, such that the terms of not more than one member shall expire in any year. The expiration date of all terms shall be May 31. During June of each year, the Mayor may designate one member as Chairperson; however, in the absence of such designation, the Board shall on or after July 15, select a Chairperson from among its members.

(2) Any vacancy shall be filled for the unexpired term of the member whose place becomes vacant. If any member misses three unexcused meetings in a calendar year, that member's Board position shall be deemed immediately vacated without further action by the Board or the City Council. The Board shall have no authority to restore such member to a position deemed vacated. Absences may be excused by unanimous vote of the remaining members of the Board and shall be granted only for personal emergencies as reasonably determined by the members of the Board voting on the absence.

§ 26.1703 Duties and Functions

The Board shall:

- (a) Adopt rules consistent with the law for the government of its business and procedures, provided that such rules shall specify that a quorum shall at all times consist of at least two members;
- (b) Meet periodically but no less than every three (3) months, and in separate meetings with the City Auditor and Comptroller, the City's Independent Auditor, and the representatives of the City's Disclosure Practices Working Group. The Board's meetings shall be subject to the California Brown Act.
- (c) Establish procedures to receive and respond to any complaints or concerns regarding accounting, internal controls, or auditing matters, including procedures for the confidential and anonymous submission by employees of any such complaints or concerns.
- (d) Review and evaluate the annual report on the City's disclosure controls and procedures made by the Disclosure Practices Working Group and provide to the Disclosure Practices Working Group, the Mayor, and the City Council any comments or recommendations it may have.
- (e) Review the outside auditor's management letter, together with the City's response to that letter; review and evaluate the annual report on the City's internal controls made by the City Auditor and Comptroller and City Manager; and provide to the Mayor and the City Council any comments or recommendations it may have regarding these documents.

- (f) Review and evaluate the procedures, diligence, ability, and work product of the outside auditor and report annually to the Mayor and City Council on its findings and any recommendations it may have.
- (g) Review and evaluate the City's exercise of its obligations under federal and state securities laws with respect to securities issued by the "related entities," as defined in San Diego Municipal Code section 22.1702, and provide to the Disclosure Practices Working Group, the Mayor, and the City Council any comments or recommendations it may have.
- (h) Conduct such other studies, reviews, and public hearings on matters relating to or connected with the City's financings, disclosures, audits, and internal financial controls and procedures as it shall be directed by the Mayor and City Council, and report on its findings, together with such recommendations as the Board shall deem appropriate, to the Mayor and the City Council.

**§ 26.1704 Selection of Independent Auditors**

- (a) In preparation for the issuance of a Request for Proposals for an independent auditor for the City, the City Manager shall consult with the Board regarding its recommendations relating to appropriate expertise, experience, responsibility, and other factors on which candidates will be evaluated.
- (b) The Board shall review and evaluate all responses to a Request for Proposals for the independent auditor to the City, and shall recommend to the City Council a candidate to be selected.

- (1) The City Council may approve or reject the Board's selection, but the City Council shall not substitute a candidate of its own choice.
- (2) In the event that the City Council rejects the recommendation of the Board, the Board shall provide another recommendation or, in its sole discretion, provide for the issuance of a new Request for Proposals to encourage additional candidates to submit their proposals.

**§ 26.1705 Indemnification and Reimbursement for Expenses**

The members of the Board shall be reimbursed for reasonable expenses incurred in the performance of their official duties, pursuant to City Administrative Regulations. The members of the Board shall be defended and indemnified with respect to the course and scope of their official duties as more fully set forth in state law.

**§ 26.1706 Board Resources; Independent Advisers**

The City Manager, the City Attorney, the City Auditor and Comptroller, and the City Treasurer shall fully cooperate with the Board and provide such assistance and resources as are reasonably necessary to allow it to carry out its responsibilities. In the City's Annual Budget, in addition to budgeting sufficient internal staff resources, the City Manager shall propose an expenditure of funds sufficient to engage such independent counsel or other independent advisers to assist the Board in carrying out its responsibilities as the Board shall reasonably request. The City Council shall appropriate monies as proposed by the City Manager sufficient to meet these needs.

Section 2. That Chapter 2, Article 2, Division 3 of the San Diego Municipal Code is hereby amended by adding new sections 22.0302, 22.0303, and 22.0304 to read as follows:

§ 22.0302 Deputy City Attorney for Finance and Disclosure

- (a) To assist in carrying out the responsibilities of the City Attorney under Chapter 2, Article 2, Division 41, the City Attorney shall designate a Deputy City Attorney for Finance and Disclosure who is knowledgeable about federal and state securities laws relating to municipal finance to supervise those Deputy City Attorneys of the Office of the City Attorney who are responsible for matters relating to City financings and disclosure; assist the City Attorney in carrying out the City Attorney's duties to the Disclosure Practices Working Group; and to assist in the undertaking and coordination of such due diligence as is necessary in preparation for the issuance of the opinion of the City Attorney in connection with City financings.
- (b) The Deputy City Attorneys designated pursuant to sections 22.0303 and 22.0304 shall not be designated as the Deputy City Attorney for Finance and Disclosure pursuant to this section.

§ 22.0303 Disclosure Advisor to the City Council

- (a) City Attorney shall designate one or more Deputy City Attorneys to advise and assist the City Council in connection with matters related to financings, disclosures, and other matters, including advising and assisting the members of the City Council in meeting requirements under federal and state securities laws.



- (b) The Deputy City Attorneys designated pursuant to sections 22.0302 and 22.0304 shall not be designated to advise and assist the City Council pursuant to this section.

**§ 22.0304 Legal Advisor to the Financial Reporting Oversight Board**

- (a) The City Attorney shall designate one or more Deputy City Attorneys as legal advisors to the Financial Reporting Oversight Board to provide any necessary and appropriate advice to that Board.
- (b) The Deputy City Attorneys designated pursuant to sections 22.0302 and 22.0303 shall not be designated as legal advisors to the Financial Reporting Oversight Board pursuant to this section.

Section 3. That Chapter 2, Article 2 of the San Diego Municipal Code is hereby amended by adding new Division 41 titled "Securities Disclosure," and by adding new sections 22.4101, 22.4102, 22.4103, 22.4104, 22.4105, 22.4106, 22.4107, 22.4108, 22.4109, 22.4110, 22.4111, and 22.4112 to read as follows:

**Article 2: Administrative Code**

**Division 41: Securities Disclosure**

**§ 22.4101 Disclosure Practices Working Group Purpose and Intent**

- (a) The City Manager, the City Attorney, the City Auditor and Comptroller, and the City Treasurer are hereby directed to establish a Disclosure Practices Working Group, consisting solely of City officers, managers, and staff, with the assistance and advice of the City's disclosure counsel, which shall have the responsibilities set forth in this Division, in furtherance of the mandates of section 32.1 of the City Charter, to ensure the compliance of the City (and the City Council, City officers, and staff

in the exercise of their official duties) with federal and state securities laws and to promote the highest standards of accuracy in disclosures relating to securities issued by the City. It is the intent of the City Council that the Disclosure Practices Working Group be an internal working group of City staff and not a decision-making or advisory body subject to the California Brown Act.

- (b) The responsibilities of the Disclosure Practices Working Group shall be:
- (1) to design and implement the City's disclosure controls and procedures;
  - (2) to review the City's disclosures in connection with its securities;
  - (3) to ensure the City's compliance with federal and state securities laws;
  - (4) to ensure that City staff receive appropriate training regarding such controls and procedures;
  - (5) to evaluate the disclosure controls, procedures, and compliance therewith on an annual basis;
  - (6) to make such recommendations as it shall see fit regarding such disclosure controls and procedures and related matters to the City Manager, the City Council, and the Financial Reporting Oversight Board; and,
  - (7) to ensure that the City Council, City officers, and staff comply with the federal securities laws in the exercise of their official duties in connection with securities issued by the *related entities*.

§ 22.4102 **Definitions**

Each word or phrase that is defined in this Division appears in the text of this Division in italicized letters. For purposes of this Division, the following definition(s) shall apply:

*Related entities* mean those independent agencies, joint power authorities, special districts, component units, or other entities created by ordinance of the City Council or by State law that issue securities, for which the City Council serves as the governing or legislative body, or for which at least one City officer serves as a member of the governing or legislative body in his or her official capacity, or for which the City has agreed to provide disclosure. *Related entities* include but are not limited to the Public Facilities Financing Authority of the City of San Diego, the San Diego Facilities and Equipment Leasing Corporation, the City of San Diego/MTDB Authority, the Convention Center Expansion Financing Authority, the Redevelopment Agency of the City of San Diego, the San Diego Open Space Park Facilities District No.1, the reassessment districts, and community facilities districts created by the City.

§ 22.4103 **Organization of the Disclosure Practices Working Group**

The Disclosure Practices Working Group shall consist of the following:

- (a) the City Attorney, who shall serve as chair of the Disclosure Practices Working Group;
- (b) the Deputy City Attorneys designated pursuant to sections 22.0302, 22.0303, and 22.0304 of the San Diego Municipal Code;
- (c) the City Auditor and Comptroller (and such other managers of the Office of City Auditor and Comptroller as the City Auditor and Comptroller

deems necessary for the effective operation of the Disclosure Practices Working Group);

- (d) the City Treasurer (and such other managers of Financing Services as the City Treasurer deems necessary for the effective operation of the Disclosure Practices Working Group);
- (e) the Deputy City Manager responsible for the financial management functions of the City (and such other senior members of the City Manager's Office as the City Manager deems necessary for the effective operation of the Disclosure Practices Working Group); and,
- (f) the City's outside disclosure counsel.

**§ 22.4104 Meetings**

The Disclosure Practices Working Group shall meet as often as necessary to fulfill its obligations under this section, but not less than once a month. Members of the Disclosure Practices Working Group may participate in meetings by telephone.

**§ 22.4105 Design and Implementation of Disclosure Controls and Procedures**

- (a) The Disclosure Practices Working Group shall conduct a thorough review of the City's current disclosure practices and shall recommend to the City Manager by December 30, 2004, such new disclosure controls and procedures as shall be necessary to ensure the accuracy of the City's disclosures and the City's compliance with all applicable federal and state securities laws. Such disclosure controls and procedures shall be in writing and designed to ensure:

- (1) that information material to the City's proposed and outstanding securities is accumulated and communicated to senior City officials, including the City Manager, City Auditor and Comptroller, City Treasurer, City Attorney, and the City Council, as appropriate, to allow timely decisions regarding disclosure;
  - (2) that such information is recorded, processed, and summarized in a timely manner to enable the requisite senior City officials to certify the accuracy of disclosures made in connection with City financings;
  - (3) compliance with all applicable federal and state securities laws, including the disclosure of all material information with respect to the City's proposed and outstanding securities; and,
  - (4) the preservation of an audit trail regarding information reviewed or prepared in connection with such disclosures.
- (b) Such disclosure controls and procedures shall address the accuracy of information disclosed by the City in connection with securities issued by the *related entities*, and shall include those procedures established by the Financial Reporting and Oversight Board for employees and officials to submit complaints or concerns to the Financial Reporting Oversight Board confidentially and anonymously.
- (c) The City Manager shall implement the recommendations of the Disclosure Practices Working Group relating to disclosure controls and procedures together with any recommendations of the Financial Reporting Oversight Board relating to disclosure controls and procedures as soon as

practicable, or shall within 45 days of receiving such recommendations provide the City Council with a report as to why such recommendations should not be implemented.

§ 22.4106 Annual Evaluation and Report

- (a) Each year, beginning in 2005, the Disclosure Practices Working Group shall, in collaboration with the City Manager and the City Auditor and Comptroller, conduct an annual evaluation of the City's disclosure procedures and controls. In the course of that review, the Disclosure Practices Working Group shall:
  - (1) meet with key managers and staff in the City Manager's Office (particularly those managers and key staff responsible for the financial management of the City), the City Treasurer's Office, and other relevant offices and departments to discuss the elements of the City's disclosure materials for which they are responsible and to evaluate the effectiveness of the disclosure procedures;
  - (2) meet with the City's independent auditors and disclosure counsel to review the design and operation of the disclosure controls and procedures; and
  - (3) submit a written Annual Report on the Committee's work and findings to the City Council and to the Financial Reporting Oversight Board on or before [November 1] of each year, beginning [November 1, 2005].
- (b) The City Manager and the City Auditor and Comptroller shall:
  - (1) review the Annual Report required by subsection (a)(3);

- (2) certify in writing within 14 calendar days of the issuance of the Annual Report to the City Council that they have reviewed the report; and,
- (3) provide to the City Council any recommendations or dissenting opinions that they may have with regard to the content of the Annual Report.

**§ 22.4107 Timely Preparation and Review of Disclosure Documents**

- (a) The Disclosure Practices Working Group shall be responsible for the following:
  - (1) reviewing the form and content of all of the City's documents and materials prepared, issued, or distributed in connection with the City's disclosure obligations relating to its securities, including without limitation, preliminary and final official statements and any supplements thereto, Comprehensive Annual Financial Reports, Annual Reports, and other filings made with Nationally Recognized Municipal Securities Information Repositories, press releases, rating agency presentations, web-site postings, and other communications reasonably likely to reach investors or the securities markets; and,
  - (2) providing for the timely review of all disclosure materials requiring approval and certification by the City Manager, City Treasurer, and City Auditor and Comptroller.
- (b) The Disclosure Practices Working Group also shall be responsible for reviewing disclosures provided by the City in connection with securities

issued by the *related entities*, together with all of such documents and materials prepared, issued, or distributed in connection with such securities, to the extent that the City, the City Council, or City officers, or staff are responsible for the form or content of such documents or materials. As appropriate, the Disclosure Practices Working Group shall provide for the timely review of all such disclosure materials requiring approval and certification by the City Manager, City Treasurer, and City Auditor and Comptroller.

**§ 22.4108** Promote Compliance with Securities Laws

The Disclosure Practices Working Group shall promote the City's compliance with the federal and state securities laws relating to disclosure in connection with the City's securities and may make recommendations to the City Manager and the City Council regarding appropriate means for furthering such compliance by the City or the *related entities*.

**§ 22.4109** Training for City Employees

- (a) The Disclosure Practices Working Group shall be responsible for arranging for mandatory training, on a regular basis, for City staff, officials, City Councilmembers, and the Mayor regarding their obligations relating to disclosure matters under federal and state securities laws.
- (b) The City Manager, the City Auditor and Comptroller, and the City Attorney shall ensure the attendance at such training of those persons for whom the Disclosure Practices Working Group recommends such training.



- (c) Such fraining shall include information on how to submit complaints or concerns to the Financial Reporting Oversight Board in a confidential and anonymous manner.

**§ 22.4110 Requests of the Disclosure Practices Working Group**

Officers and employees of the City and its component units and members of the Board of Administration, officers, and employees of the San Diego City Employees' Retirement System shall promptly provide such information, assurances, and/or certifications as the Disclosure Practices Working Group may, at its sole discretion, request in order to assure compliance with federal and state securities laws.

**§ 22.4111 Certifications by City Officials to the City Council**

- (a) In connection with the approval of offering documents for securities by the City Council, the City Manager and the City Attorney each shall certify in writing to the City Council that to the best of his or her knowledge, such documents do not make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. In the event that the City Manager or the City Attorney is medically incapacitated or physically absent from the jurisdiction, a deputy or other authorized designee of such officer may make the certification required by this section.
- (b) Upon the issuance of the City's Comprehensive Annual Financial Report [CAFR] and in connection with the incorporation of all or portions of the CAFR in the disclosure documents of the City or the *related entities*, the

City Auditor and Comptroller shall make the certifications to the City Council required by Chapter 2, Article 2, Division 7 of the San Diego Municipal Code.

**§ 22.4112 Selection of Independent Auditors**

In preparation for the issuance of a Request for Proposals for an independent auditor for the City, the City Manager shall consult with the Disclosure Practices Working Group regarding its recommendations relating to appropriate expertise, experience, responsibility, and other factors on which candidates will be evaluated by the Financial Reporting Oversight Board.

Section 4. That Chapter 2, Article 4, Division 9 of the San Diego Municipal Code is amended by amending section 24.0911 to read as follows:

**§ 24.0911 Annual Report**

- (a) The Retirement Board shall prepare an Annual Report at the end of each fiscal year to provide information to all Members concerning the System. Copies of the Annual Report shall be distributed to all Members. The Retirement Administrator shall keep a copy of the Annual Report in his or her office.
- (b) The President of the Retirement Board shall provide the Annual Report to the City Manager and the City Council, shall inform the City Manager and the City Council semi-annually of the funding status of the pension system, the impact of any demographic or actuarial issues, and any other changes affecting the benefits or funding of the Retirement System that have occurred since the date of the previous semi-annual report pursuant to this section.

- (c) The President of the Retirement Board and the Retirement Administrator shall promptly inform the City Manager and the City Council of all material facts or significant developments relating to all matters under the jurisdiction of the Board, except as may be otherwise controlled by the laws and regulations of the United States or the State of California.
- (d) The President of the Retirement Board, the Retirement Administrator, and all officers and employees of the Retirement System shall comply promptly with all lawful requests for information by the City Council, the City Manager, the City Attorney, or their designees.

Section 5. That Chapter 2, Article 2, Division 7 of the San Diego Municipal Code is amended by adding new sections 22.0708 and 22.0709, to read as follows:

**§ 22.0708 Annual Report on Internal Controls**

- (a) On or before September 1 of every year, beginning with September 1, 2005, the City Auditor and Comptroller, in coordination with the City Manager, shall conduct an annual evaluation of the City's internal financial controls. In the course of that review, the City Auditor and Comptroller shall conduct a thorough review of the efficacy of the City's internal financial controls and their operation and meet with the City's independent auditors to review the design and operation of the City's internal financial controls.
- (b) The City Manager and the City Auditor and Comptroller shall submit a written Annual Report of their findings to the City Council and the Financial Reporting Oversight Board on or before January 1 of every year, beginning with January 1, 2006, and such Annual Report shall be

docketed for an open session hearing of the City Council within thirty (30) days thereafter. Accompanying such Annual Report shall be a certification signed by the City Manager and the City Auditor and Comptroller, certifying that they:

- (1) are responsible for establishing and maintaining the City's internal financial controls;
- (2) have designed such internal financial controls to ensure that material information relating to the City and its departments, offices, agencies, and affiliated "related entities" as defined in San Diego Municipal Code section 22.1702, is made known to the City Manager and/or the City Auditor and Comptroller by others within the City and its departments, offices, agencies, and affiliated "related entities," particularly during the period in which the Annual Report required by this section is being prepared;
- (3) have evaluated the effectiveness of the City's internal financial controls as of a date within 90 days prior to the Annual Report;
- (4) have presented in the Annual Report their conclusions about the effectiveness of their internal controls based on such evaluation as of that date;
- (5) have disclosed to the City's independent auditors and the Financial Reporting Oversight Board all significant deficiencies in the design or operation of internal controls that could adversely affect the City's ability to record, process, summarize, and report financial data;

- (6) have identified for the City's independent auditors any material weaknesses in internal controls and any fraud, whether or not material, that involves management or other employees who have a significant role in the City's internal controls; and
  - (7) have indicated in the Annual Report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.
- (c) In the event that the City Manager or the City Auditor and Comptroller is absent, a deputy or other authorized designee of such officer may make the certification required by this section.

**§ 22.0709**      **Certifications to the City Council**

- (a) In connection with the issuance of the City's Comprehensive Annual Financial Reports [CAFR], the City Auditor and Comptroller shall certify in writing to the City Council that to the best of his or her knowledge, as of its date:
- (1) the information contained in the CAFR fairly presents, in all material respects, the financial condition and results of operations of the City as of, and for, the periods presented in the CAFR; and
  - (2) the CAFR does not make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

(b) In connection with offerings of securities of the City or the “related entities” as defined in San Diego Municipal Code section 22.1702, the City Auditor and Comptroller shall certify in writing to the City Council that to the best of his or her knowledge, as of the date of the offering documents or other relevant disclosure materials, the information contained in those sections of such offering documents or disclosure materials for which the City Auditor and Comptroller is primarily responsible:

- (1) that the information fairly presents, in all material respects, the financial condition and results of operations of the City;
- (2) that the information does not make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and
- (3) that the financial statements and other financial information from the CAFR included in such offering documents or disclosure materials fairly present in all material respects the financial condition and results of operations of the City as of, and for, the periods presented in the CAFR.

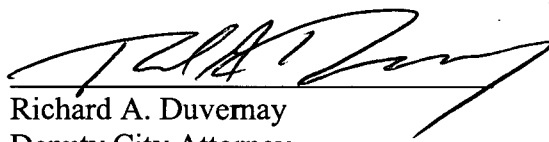
(c) In the event that the City Auditor and Comptroller is absent, his or her deputy or other authorized designee shall provide the certifications required by this section.

Section 6. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 7. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By

  
Richard A. Duvernay  
Deputy City Attorney

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09/23/2004  
09/30/2004 REV. Interiineation  
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