

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, JUNE 17, 2008 AT 10:00 A.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

NOTE: The public portion of the meeting will begin at 10:00 a.m. The City Council will meet in Closed Session this morning from 9:00 a.m. – 10:00 a.m. Copies of the Closed Session agenda are available in the Office of the City Clerk.

OTHER LEGISLATIVE MEETINGS

The **SAN DIEGO REDEVELOPMENT AGENCY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Redevelopment Agency Secretary at (619) 236-6256. Internet access to the agenda is available at:
<http://www.sandiego.gov/redevelopment-agency/index.shtml>

ITEM-300:

ROLL CALL.

=== LEGISLATIVE SCHEDULE ===

Special Orders of Business

ITEM-30: La Jolla Elementary School Day.
COUNCIL PRESIDENT PETERS' RECOMMENDATION: Adopt the resolution.

ITEM-31: Dr. Murtaza H. Baxamusa Day.
COUNCILMEMBER ATKINS' RECOMMENDATION: Adopt the resolution.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUEST FOR CONTINUANCE

The Council will consider requests for continuance in the morning or afternoon, based on when the item was noticed to be heard.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items

- ITEM-50: First Amendment to Joint Use Agreement with San Diego Unified School District for Thurgood Marshall Middle School. (Scripps Ranch Community Area. District 5.)
STAFF'S RECOMMENDATION: Introduce the ordinance in Subitem A; and adopt the resolution in Subitem B.
NOTE: 6 votes required pursuant to Section 99 of the City Charter.
- ITEM-100: Awarding Construction Contract to Western Summit Constructors, Inc. for Otay Water Treatment Plant Upgrades Phase I and Phase II Project.
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 9/26/2007, NR&C voted 4 to 0 to approve.
- ITEM-101: FY 2008 Deappropriation of Fund 41509 Capital Improvement Funds. (Citywide.)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 5/28/2008, NR&C voted 4 to 0 to approve.
- ITEM-102: La Jolla Shores Coastal Watershed Management Plan and Grant Application to the State Water Resources Control Board. (La Jolla Shores Community Area. District 1.)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 4/23/2008, NR&C voted 4 to 0 to approve.
- ITEM-103: Alvarado Water Quality Lab Roof Replacement. (Navajo Community Area. District 7.)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 4/23/2008, NR&C voted 4 to 0 to approve.
- ITEM-104: Modernization of Elevators at the City Administration Building (CAB) and Evan V. Jones Parking Facility. (Downtown San Diego Community Area. District 2.)
STAFF'S RECOMMENDATION: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items (Continued)

ITEM-105: Amendment to Extend Term of Existing Sublease with Wesco Sales Corp. DBA Dana Landing. (Coastal/Mission Beach Community Area. District 2.)
STAFF'S RECOMMENDATION: Adopt the resolution.

ITEM-106: Solid Waste Local Enforcement Agency (LEA) Application for LEA Grant.
STAFF'S RECOMMENDATION: Adopt the resolution.

ITEM-107: Sale of City-Owned Property to the United States of America. (San Ysidro Community Area. District 8.)
STAFF'S RECOMMENDATION: Adopt the resolution.

ITEM-108: San Diego Operation Clean Sweep Day.
COUNCILMEMBER HUESO'S RECOMMENDATION: Adopt the resolution.

ITEM-109: Agreement with Latham & Watkins LLP to Provide Legal Services in Connection with AFCSME Local 127 and San Diego Municipal Employees' Association vs. City of San Diego.
CITY ATTORNEY'S RECOMMENDATION: Adopt the resolution.

ITEM-110: Continuing Agreement with Latham & Watkins LLP to Provide Legal Services in Connection with McGuigan v. City of San Diego.
CITY ATTORNEY'S RECOMMENDATION: Adopt the resolution.

Adoption Agenda, Discussion, Other Legislative Items

NOTE: This item may be taken in the morning session if time permits.

ITEM-330: Amendments to the San Diego Municipal Code Eliminating the Surplus Undistributed Earnings ("Waterfall") Relating to the City Employees' Retirement System. (Citywide.)
COUNCIL PRESIDENT PETERS' RECOMMENDATION: Take **one** of the actions.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Discussion, Other Legislative Items (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-331: Centre City Development Corporation Amended and Restated Bylaws - General.
CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION: Take the actions.

NOTE: This item may be taken in the morning session if time permits.

ITEM-332: Authorization to Sell City-Owned Excess Real Estate and Approve Broker Commission. (University Community Area. District 1.)
STAFF'S RECOMMENDATION: Adopt the resolution.

NOTE: This item may be taken in the morning session if time permits.

ITEM-333: TransNet Local Street and Road Program – 2008 Regional Transportation Improvement Program. (Citywide.)
STAFF'S RECOMMENDATION: Adopt the resolution.

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-334: Purchase and Installation of Street Lights – City Heights Redevelopment Project Area. (City Heights/Mid-City Community Area. District 3.)
STAFF'S RECOMMENDATION: Adopt the resolution.

Noticed Hearings, Discussion

ITEM-335: Linda Vista Road Center. Rezone three contiguous parcels from CN-1-2 to CC-1-1, an Easement Vacation and a Planned Development Permit to develop an 8,046 square foot retail center on a 60,134 square foot site located at 7625-7631 Linda Vista Road. (Linda Vista Community Plan Area. District 6.)
STAFF'S RECOMMENDATION: Adopt the resolutions in Subitems A, C, and D; and introduce the ordinance in Subitem B.

=== LEGISLATIVE SCHEDULE (Continued) ===

Noticed Hearings, Discussion (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-336: Jutland Drive Undergrounding Utility District. Creating the formation of the Underground Utility District. (Clairemont Mesa Community Plan Area. District 6.)
STAFF'S RECOMMENDATION: Adopt the resolution.

ITEM-337: Altadena Avenue Undergrounding Utility District. Creating the formation of the Underground Utility District (Districts), and certification of the Mitigated Negative Declaration, Project No. 139574. (Mid-City/City Heights Community Plan Area. District 7.)
STAFF'S RECOMMENDATION: Adopt the resolutions.

ITEM-338: Various Surcharge Funded Undergrounding Utility Districts. Creating the formation of the Underground Utility Districts: Residential Project Block 3H (Talmadge 3); Residential Project Block 4Z (Paradise Hills North); Residential Project Block 61 (Bay Ho 2); and Patrick Henry High Block. (Various Community Planning Areas. Districts 3, 4, 6, and 7.)
STAFF'S RECOMMENDATION: Adopt the resolutions.

ITEM-339: Various Surcharge Funded Undergrounding Utility Districts. Creating the formation of the Underground Utility Districts: Residential Project Block 2T (Pacific Beach North); Residential Project Block 7A (Fox, Canyon); and Residential Project Block 8B (Sherman Heights 3) and certification of the Mitigated Negative Declaration, Project No. 139574. (Various Community Planning Areas. Districts 2, 7, and 8.)
STAFF'S RECOMMENDATION: Adopt the resolutions.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

SPECIAL ORDERS OF BUSINESS

ITEM-30: La Jolla Elementary School Day.

[?View referenced exhibit back-up material.](#)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-1139)

Commending La Jolla Elementary School for its dedicated service to providing top quality education and outstanding community involvement;

Proclaiming June 17, 2008, to be "La Jolla Elementary School Day" in the City of San Diego.

ITEM-31: Dr. Murtaza H. Baxamusa Day.

[?View referenced exhibit back-up material.](#)

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-1080)

Commending and thanking Dr. Murtaza H. Baxamusa for the imprint he has left and continues to leave on the City of San Diego;

Proclaiming June 17, 2008, to be "Dr. Murtaza H. Baxamusa Day" in the City of San Diego.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUESTS FOR CONTINUANCE

The Council will consider requests for continuance in the morning or afternoon, based on when the item was noticed to be heard.

ADOPTION AGENDA, CONSENT ITEMS

The following listed items are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (*). Because these items may be handled quickly, if you wish to be heard submit your Request to Speak form prior to or at 10:00 a.m.

ORDINANCES TO BE INTRODUCED, WITH RESOLUTIONS TO BE ADOPTED:

Item 50.

RESOLUTIONS TO BE ADOPTED:

Items 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, and 110.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:

- * ITEM-50: First Amendment to Joint Use Agreement with San Diego Unified School District for Thurgood Marshall Middle School. (Scripps Ranch Community Area. District 5.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Introduce the following ordinance in Subitem A; and adopt the resolution in Subitem B:

Subitem-A: (O-2008-163)

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City, a First Amendment to the Joint Use Agreement with the San Diego Unified School District for the Thurgood Marshall Middle School, under the terms and conditions set forth in the Agreement;

Declaring that this activity is not a Project, and is therefore not subject to California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

Subitem-B: (R-2008-1131)

Authorizing an increase in the Fiscal Year 2008 Capital Improvements Program budget in CIP-29-920.0, Future Thurgood Marshall Middle School Joint Use Agreement, Fund 39301, Scripps Ranch Library for an amount not to exceed \$20,000;

Authorizing the City Auditor and Comptroller to appropriate and expend \$20,000 from CIP-29-920.0, Future Thurgood Marshall Middle School Joint Use Agreement from Fund 39301, Scripps Ranch Library, for the purpose of reimbursing the cost of the improvements;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring that this activity is not a Project, and is therefore not subject to California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

ADOPTION AGENDA, CONSENT ITEMS (Continued)ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:
(Continued)

* ITEM-50: (Continued)

STAFF SUPPORTING INFORMATION:

On March 27, 2007, City and District entered into an Agreement for the Construction, Operation, Maintenance, and Lease at Future Thurgood Marshall Middle School, Ordinance No. OO-19582. This Agreement provided approximately 5.25 acres of turfed athletic fields for use by both the public and school district. The construction period of the facilities extended longer than anticipated which pushed the date for planting the turf stolons beyond the optimum planting window for the species of turf being used. Therefore, the City and District agreed to share the cost of installing turf sod with the anticipation that the field could be opened for use earlier than if stolons had been used.

The additional cost to change from stolons to sod was \$43,000. The City agreed to fund 20,000 of this addition cost through Fund 39301, Scripps Ranch Library. This Fund was created in 2001 to receive \$35,000 from McMillin Homes pursuant to the Big 5 Agreement negotiated by the various planning groups and civic organizations in Scripps Miramar Ranch and Miramar Ranch North as part of the approval of the Rancho Encantada Precise Plan. The funds were originally intended for the purpose of constructing a stairway for access to the Scripps Ranch Library. Subsequent to the approval of the Big 5 Agreement, the community realized that because of ADA requirements, a stairway could not be built for that amount of money, and they decided to use those funds for other community needs to be determined later. The funds were received from McMillin in 2004.

In June 2007, the Scripps Ranch Planning Group voted to approve the use of \$20K of the \$35K to pay for the sod at the Thurgood Marshall Middle School joint-use facility. Facilities Financing staff contacted several of the library staff, including the Director. A meeting was held in August 2007, with a designee from the library, a representative from Council District 5, and a representative from the Scripps Ranch Planning Group, to confirm the use of these funds for the sod installation at the joint use facility.

The additional funds contributed by the City and the District required the parity formula within the Agreement be revised. The revision in the parity formula increased the number of years of City maintenance required to reach parity from 42.43 years to 42.5 years, a 0.07 year increase. In addition, the school opened on September 4, 2007; therefore, all references to the "Future" Thurgood Marshall Middle School in the agreement are changed to read Thurgood Marshall Middle School.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:
(Continued)

* ITEM-50: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

The additional 0.07 year increase in City maintenance to reach parity equates to an increase of \$2,689.40 in City maintenance costs contributions. Once parity is reached, the City and the District will equally share the maintenance costs associated with the joint use facilities.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Ordinance No. OO-19582, March 27, 2007, Agreement for the Construction, Operation, Maintenance, and Lease at Future Thurgood Marshall Middle School.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Scripps Ranch Planning Group approved the additional expenditure of \$20,000.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Scripps Ranch Recreation Council, San Diego Unified School District, City of San Diego Park and Recreation Department. This action will allow public use of the joint use facilities earlier than anticipated.

LoMedico/Heap

Aud. Cert. 2800809.

Staff: Jim Winter - (619) 235-5257
Shannon Thomas - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- * ITEM-100: Awarding Construction Contract to Western Summit Constructors, Inc. for Otay Water Treatment Plant Upgrades Phase I and Phase II Project.

[?View referenced exhibit back-up material.](#)

(See Water Department's 9/13/2007 Executive Summary Sheet and 9/26/2007 Power Point; and memorandum from Debra Fischle-Faulk, Patti Boekamp, and Hildred Pepper dated 4/28/2008.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1105)

Authorizing the Mayor to establish contract funding phases and to award the construction contract for the Otay Water Treatment Plant (WTP) Upgrades Phase I and Phase II Project to Western Summit Constructors, Inc. with an amount not to exceed \$23,989,300;

Authorizing the expenditure of \$28,614,700 (\$27,415,235 from Water Fund 41500, CIP-73-285.0, Otay WTP Upgrades Phase I and Phase II for the purpose of construction and project related costs, and \$1,199,465 from Water Fund 41500, CIP-73-331.0, Pool Contingency Plan Upgrade for the purpose of providing funding for this project contingency), provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing FY08 funding of \$9,017,409.28 from CIP-73-285.0, Otay WTP Upgrade Phase I and Phase II of which \$3,786,604.78, is for Otay WTP Phase I (\$3,350,100 for construction cost and \$436,504.78 for Project related cost) and \$5,230,804.50 is for Otay WTP Phase II (\$4,310,290 for construction cost and \$920,514.50 for Project related cost);

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

Declaring that this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(c). This activity is a subsequent discretionary approval covered under Otay Water Treatment Plant Upgrade Mitigated Negative Declaration (LDR No. 40-0932). The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/26/2007, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Maienschein, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

The Otay Water Treatment Plant is one of the City's three water treatment plants, producing up to 34 million gallons of treated water each day. The plant supplies water to San Diego's southern communities and also sells water to Otay Water and California American Water Districts which distribute water to the Cities of Coronado, Imperial Beach, and Chula Vista.

The Phase I Upgrade to the Otay WTP will include the construction of a new flocculation and sedimentation basin, and upgrade the existing sixteen (16) filters. This will greatly enhance the plant's operational flexibility and provide improved water quality. Filter modifications, upgrades of the control system, a new programmable logic control, and SCADA will improve plant operations. These upgrades are required to help the City meet State and Federal drinking water quality regulations.

The Phase II Upgrade to the Otay WTP will include the construction of a chlorine dioxide (CL02) system, powder activated carbon (PAC) facility, granular activated carbon (GAC) filtration media, electrical support facilities, and instrumentation and control systems. These improvements will enable the Otay WTP to meet the water quality standards required by the State of California Department of Public Health (DPH), the United States Environmental Protection Agency (USEPA) Stage 2 Disinfection Bi-Product (DBP) Rules, and the Long-Term 2 (LT2) Enhanced Surface Water Treatment Rule. On June 14, 2007, Phase II was approved to receive the State of California Proposition 50 grant to cover up to 50 percent of the total cost of the project.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

SUPPORTING INFORMATION: (Continued)

Upgrades to the Otay WTP will allow more use of local raw water and will reduce the City's dependency on imported water. In addition, the Otay WTP upgrades will meet the requirements outlined in the DPH letter (City of San Diego System No. 3710020, Otay Filtration Plant Inspection) dated December 1998, Compliance Order Amendment Number 11 to Compliance Order 04-14-96CO-022, and the USEPA DBP and LT2 Rule.

The action is for Council to award the contract for construction of the Otay WTP Upgrade Project Phase I & Phase II to Western Summit Constructors, Inc., in the amount of \$23,989,300.

EQUAL OPPORTUNITY CONTRACTING:

This project is subject to the SCOPE Program. As requested by Council on January 8, 2008, staff has summarized the EOCP requirements related to advertising and award of this project. This information was collected after the bid opening.

FISCAL CONSIDERATIONS:

The total estimated cost for Otay WTP Phase I and Phase II is \$41,580,939.71 of which \$12,966,239.71 was previously authorized. The remaining cost of \$28,614,700 for this project will be phase funded FY08-FY10. Funding for this purpose is available in Water Fund 41500, CIP-73-285.0, Otay Water Treatment Plant Phases I and II. The project cost may be reimbursed approximately 80% by current or future debt financing. The Auditor's Certificate for FY09 and FY10 will be issued prior to contract award. No future funding anticipated for this project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On November 30, 2000, Council authorized the City Manager to execute the Original Agreement with MWH (RR-294237). Subsequently, Council authorized the City Manager to execute the First Amendment with MWH (C-12076) on June 23, 2003, and Council authorized the City Manager to execute the Second Amendment with MWH (OO-19451) on December 5, 2005. On September 26, 2007, Natural Resources and Culture Committee approved this requested action. On January 8, 2008, Council O-19710 approved the MWH Third Amendment Agreement and R-303290 approved the Harris & Associates construction management services and plans and specifications regarding the Otay Water Treatment Plant Phase I & Phase II.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

SUPPORTING INFORMATION: (Continued)

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders are the City of San Diego, Water Department, Engineering and Capital Projects Department, MWH Americas, Inc., Harris & Associates, USEPA, DPH, OWD, California American Water, the Cities of Chula Vista, Coronado and Imperial Beach and water rate payers.

Boekamp/Jarrell

Aud. Cert. 2800853.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-101: FY 2008 Deappropriation of Fund 41509 Capital Improvement Funds.
(Citywide.)

[?View referenced exhibit back-up material.](#)

(See Metropolitan Wastewater Department's 4/22/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-999)

Authorizing the City Auditor and Comptroller to deappropriate the following amounts from the Fiscal Year 2008 Capital Improvement Program budget in Sewer Revenue Fund No. 41509:

- \$4,422,000 from CIP-45-9 15.0, Pump Station 2 Onsite Standby Power, to be available in Fiscal Years 2010 and 2011.
- \$2,200,000 from CIP-45-965.0, Environmental Monitoring & Technical Services Lab Esplanade and Streamline, to be available in Fiscal Year 2010.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 5/28/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The deappropriations requested by this action are \$6,622,000 due to schedule changes in two projects. CIP Project 45-915.0 (Pump Station 2 Onsite Standby Power) cannot begin until Pump Station 1 and Pump Station 2 Electrical Upgrade Projects are completed, therefore funds are to be reappropriated to FY 2010 and 2011. CIP Project 45-965.0 (Environmental Monitoring and Technical Services Lab Esplanade and Streamline) entails onshore improvements which require coordination with several other entities and developers. Improvements include under-grounding an existing above-ground stream line in future years therefore funds are to be reappropriated to FY 2010.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: (Continued)

SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

Previously approved funds in Sewer Fund 41509 will be reduced by \$6,622,000 in Fiscal Year 2008.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This action was reviewed and approved by the Natural Resources and Culture Committee on May 28, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): None.

Barrett

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-102: La Jolla Shores Coastal Watershed Management Plan and Grant Application to the State Water Resources Control Board. (La Jolla Shores Community Area. District 1.)

[?View referenced exhibit back-up material \(Part 1 of 2\).](#)

[?View referenced exhibit back-up material \(Part 2 of 2\).](#)

(See General Services Department's April 23, 2008, Executive Summary Sheet and Scripps Institution of Oceanography's/City of San Diego's January 31, 2008, Report.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-919)

Adopting the final La Jolla Shores Coastal Watershed Management Plan, prepared in part by the General Services Department Storm Water Pollution Prevention Division;

Authorizing the Mayor, or his designee, to apply for, enter into, conduct negotiations for, execute documents, and comply with all requirements for grant funds from the State Water Resources Control Board in an amount not to exceed \$2,500,000 to be used to implement projects consistent with the final La Jolla Shores Coastal Watershed Management Plan;

Declaring the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-102: (Continued)

SUPPORTING INFORMATION: (Continued)

Funded under a grant from the State Water Resources Control Board (SWRCB), the La Jolla Shores Coastal Watershed Management Plan (Plan) was prepared to provide a blueprint for a management model to protect and improve water quality in two state designated Areas of Special Biological Significance (ASBS) as identified in the California Ocean Plan: the La Jolla State Marine Conservation Area (ASBS No. 29) and the San Diego-Scripps State Marine Conservation Area (ASBS No. 31). The ASBS areas are designated for special protection because of their unique and diverse habitats that support a variety of marine species. By adopting the Plan, the City may pursue additional grant funding, including Proposition 84 ASBS funds, for projects consistent with the Plan.

The overarching Plan goal is to protect the ASBS and designated beneficial uses in the La Jolla Shores marine areas. Four objectives under this goal include: 1) Develop a science based ecosystem approach to ASBS/ocean protection; 2) Protect and improve water quality and reduce ASBS ecosystem impacts; 3) Facilitate watershed/ocean resource information management and knowledge transfer; and 4) encourage community involvement and ocean stewardship. The Plan was developed in consideration of other overlapping plans and programs with similar objectives on a state, regional, and local level including but not limited to the City's Mission Bay and La Jolla Watershed Urban Runoff Management Plan, San Diego Region Basin Plan, and the California Ocean Plan. The Plan presents an ASBS Protection Model and adaptive management strategy. The Plan presents recommendations for Best Management Practice Projects, ASBS Ecosystem Assessment Projects, Ocean Stewardship, Outreach and Education Programs, and Information Management.

By adopting the Plan, the City and other project partners can meet requirements under current and future grant opportunities, including funding under Proposition 84 ASBS guidelines set by the SWRCB. The Storm Water Division also requests to submit an application under the Proposition 84 grant program for an amount not to exceed \$2,500,000 in grant funds for planning, design, and future implementation of projects consistent with the Plan. The Proposition 84 ASBS grant guidelines give preference to proposals that "are consistent with adopted Integrated Coastal Watershed Management Plans."

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 1873, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-102: (Continued)

SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

Application would be made for grant funds up to the amount of \$2,500,000. Matching funds of 20% are required and are anticipated to be accounted for through the Storm Water Department's FY 09, 10, 11, and 12 annual budgets as well as through contributions from future project partners such as UCSD and San Diego Coastkeeper.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On June 19, 2006, Council approved the acceptance and expenditure of grant funds for the Integrated Watershed Management Plan grant, Resolution R-301543. That action resulted in the preparation of the La Jolla Coastal Watershed Management Plan. This action was taken to the Natural Resources and Culture Committee of the City Council on April 23, 2008. The Committee voted 4-0 (consent) in support of the action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Plan underwent a public review and comment period of approximately 30 days. Specific projects proposed under Proposition 84 ASBS Grant Guidelines would be subject to the required public review period under the California Environmental Quality Act for projects that could potentially impact the environment. Additionally, part of the cost match requirements for the grant would be completed as education and outreach services within the La Jolla ASBS Watershed.

KEY STAKEHOLDERS:

La Jolla Shores community, UC Regents-UCSD, Scripps Institute of Oceanography, and San Diego Coastkeeper.

PROJECTED IMPACTS:

None associated with this action.

Sierra/Jarrell

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-103: Alvarado Water Quality Lab Roof Replacement. (Navajo Community Area. District 7.)

[?View referenced exhibit back-up material.](#)

(See Water Department's 4/14/2009, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-798)

Amending the Fiscal Year 2008 Capital Improvement Program Budget by adding CIP-73-364.0, Alvarado Water Quality Lab Roof Replacement and MWWD CIP-42-934.0, Alvarado Water Quality Lab Roof Replacement;

Authorizing the City Auditor and Comptroller to appropriate an amount not to exceed \$197,506, from Water Fund 41500 to CIP-73-364.0, Alvarado Water Quality Lab Roof Replacement; and to transfer an amount not to exceed \$394,894 from Sewer Fund 41509, CIP-46-502.0 Annual Allocation - Clean Water Pooled Contingency to Sewer Fund 41509, CIP-42-934.0, Alvarado Water Quality Lab Roof Replacement;

Authorizing the expenditure of an amount not to exceed \$197,506, from Fund 41500, Water Fund, CIP-73-364.0, Alvarado Water Quality Lab Roof Replacement, and the expenditure of \$394,894, from Fund 41509, Sewer Fund, CIP-42-934.0, Alvarado Water Quality Lab Roof Replacement, solely and exclusively for the purpose of providing funds for the construction, contingency and related costs contingent upon the City Auditor and Comptroller first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-103: (Continued)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The Alvarado Water Quality Lab building was completed in 1992. The building is shared between the Water and Metropolitan Wastewater Departments and building costs are shared proportionately (33% Water and 67% MWWD based on square foot usage.) The roof is in poor condition and has been leaking for the past five years. The Lab building has expensive diagnostic equipment which is in danger of being damaged. Replacement costs for one piece of equipment alone may exceed \$100,000. Due to multiple leaks and potential damage to the facility and the equipment, the roof replacement is considered an emergency repair and the construction will be completed using GRC contracting.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$592,400. Funding sources include \$197,506 from Water Operating Fund 41500 transfer to CIP-73-364.0, Alvarado Water Quality Lab Roof Replacement and \$394,894 from Fund 41509, Sewer Fund, CIP-42-934.0, Alvarado Water Quality Lab Roof Replacement. The Water Department will cash fund the project. MWWD will cash fund the project and these costs may be reimbursed approximately 80% by future debt financing.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Resolution No. R-302012 approved by City Council on November 3, 2006 to hire Roofing General Requirements Contractor. On April 14, 2008, the Independent Rates Oversight Committee (IROC) approved the recommendation to support this item. This was approved on consent at NR&C on April 23, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Water and MWWD Departments.

Ruiz/Barrett

Aud. Cert. 2800803.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-104: Modernization of Elevators at the City Administration Building (CAB) and Evan V. Jones Parking Facility. (Downtown San Diego Community Area. District 2.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1127)

Authorizing the Mayor, or his designee, to award a contract for the modernization of the elevators at the City Administration Building and a contract for the Evan V. Jones Parking Facility to Amtech Elevator Services in a combined amount not to exceed \$1,695,000;

Authorizing the City Auditor and Comptroller to transfer \$195,000 from Fiscal Year 2008 General Services Department Budget (536) Fund No. 100, to Fund No. 630221;

Authorizing the additional expenditure of an amount not to exceed \$195,000 from Fund No. 630221, CIP-37-071.0, Modernizing Elevators at CAB and Parkade, solely and exclusively to provide additional funds for the project and related costs, thereby increasing the total combined amount not to exceed \$1,695,000 for the project;

Declaring that the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(d), as the repair and maintenance of existing facilities or mechanical equipment to meet current standards of public health and safety.

STAFF SUPPORTING INFORMATION:

Both CAB and Parkade Elevator Modernization projects were advertised for bidding and the lowest bid received on March 14, 2008 are as follows: CAB = \$785,495, Parkade = \$796,025, TOTAL = \$1,581,520. Adding project cost expenditures and contingencies, the total project cost is \$1,695,000, exceeding the original project budget \$1,500,000 by \$195,000.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-104: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

Increase of Funding in the amount of \$195,000 for this project will be obtained from Fiscal Year 2008 General Services Department Budget. Total estimated project cost is \$1,695,000.

EQUAL OPPORTUNITY CONTRACTING:

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City Council approved the elevator modernization for both CAB and Parkade not to exceed \$1,500,000 on June 27, 2007, per adopted Resolution Number R-302746.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City staff will work with the community during the execution of this modernization project.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City staff and the public who use the elevators in CAB and Parkade.

Sierra/Jarell

Aud. Cert. 2800831.

Staff: Bob Garcia - (619) 525-8500

Thomas C. Zeleny - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-105: Amendment to Extend Term of Existing Sublease with Wesco Sales Corp. DBA Dana Landing. (Coastal/Mission Beach Community Area. District 2.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1107)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a First Amended Sublease Agreement with Wesco Sales Corp., DBA Dana Landing for the Police Department's Harbor Unit.

STAFF SUPPORTING INFORMATION:

The San Diego Police Department's Harbor Unit provides policing enforcement for land and water at Mission Bay Park. The Department has maintained office space with the necessary water access at Dana Landing 2610-C Ingraham St., San Diego 92106 since December 2002.

FISCAL CONSIDERATIONS:

This Amendment is for 1,175 square feet of office space at a rate of \$1.56 per sq. ft. and two slips at the wharf. The office space will rent for \$1,828.35 and the slips for \$200 per month which reflects a 2% increase for the office space through September 30, 2008 and is subject to an annual increase of 3%. Real Estate Assets Valuation Staff has reviewed the lease and found the rental rate to be in line with other comparable facilities. This amendment would be for an initial term of eleven months with two one-year options. All other terms and conditions are the same as in the existing agreement. Funding for this expense is included in the Police Department's FY 2008 and FY 2009 operating budgets.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

While maintaining close proximity to their vessels, the San Diego Police Department's Harbor Unit can continue to provide policing enforcement for land and water at Mission Bay Park.

Barwick/Anderson

Aud. Cert. 2800798.

Staff: Charmaine Gillis - (619) 236-6986
Todd Bradley- Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-106: Solid Waste Local Enforcement Agency (LEA) Application for LEA Grant.

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1106)

Authorizing the Mayor, or his designee, to submit an application to the California Integrated Waste Management Board for a Local Enforcement Agency Grant and, if awarded, accept and expend grant funds;

Authorizing the Mayor, or his designee, to conduct all negotiations, execute and submit all documents, including but not limited to applications, grant agreements, amendments, payment requests, which may be necessary to carry out and administer the obligations, responsibilities, and duties of the City of San Diego Solid Waste LEA under the terms of the grant;

Authorizing the City Auditor and Comptroller to establish a separate fund for the grant monies and to deposit such grant monies as received;

Declaring that this activity is not a project and is therefore exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

The City of San Diego Solid Waste LEA is requesting non- competitive grant funds to supplement the ongoing solid waste facilities inspection and enforcement programs. The grant will enhance the LEA program for the purpose of purchasing computer equipment, software, office and technical equipment, office supplies, public outreach materials and opportunities, health and safety equipment, medical monitoring program, maintenance on existing equipment, retaining consulting services, staff salaries, laboratory services, public outreach, reference materials, professional memberships and for required training and related travel expenses of LEA staff to carry out the duties and responsibilities of solid waste inspection, permitting and enforcement.

The LEA has developed specific program goals and objectives in order to protect and promote the health and safety of the community and the environment through implementing and enforcing state solid waste statutes and regulations.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-106: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

These goals and objectives encompass a wide variety of solid waste activities including solid waste permitting, inspection, investigation and enforcement; public health and safety, waste transportation and collection inspections, regulatory streamlining, agency coordination and customer outreach.

FISCAL CONSIDERATIONS:

NOT A MATCHING GRANT. The City of San Diego Solid Waste LEA is eligible for approximately \$27,079 in grant funding from the CIWMB.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Since 1998 the City of San Diego Solid Waste LEA has applied for and received funds from the Local Enforcement Agency Grant Program (EA 19) with approval from the City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The program includes outreach to the regulated community through the development and distribution of information and literature, participation in technical advisory committees and public presentations to stakeholder groups and informational meetings regarding proposed permits.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The inspection program includes monthly, quarterly, and annual inspections of active solid waste facilities and operations, closed solid waste disposal sites and waste collection and transportation operations. The LEA is responsible for issuing solid waste facility permits to landfills, transfer stations, construction and demolition debris processing facilities, composting facilities and auditing of recycling operations. Both programs contain an element for responding to public complaints and agency referrals.

Broughton/Anderson

Staff: Lonnie Eads - (619) 533-3692
Marianne Greene - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-107: Sale of City-Owned Property to the United States of America. (San Ysidro Community Area. District 8.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1137)

Revising the minimum sale price for the City-owned real property located at 5775 Camiones Way, San Diego, California 92173, and approved for sale by City Council Resolution R-302652 on May 21, 2007 to be Three Million Dollars (\$3,000,000).

STAFF SUPPORTING INFORMATION:

In May of 2007 the City Council approved the sale of 19 properties excess to the City's needs, one of which was the 1.46 acre Border Patrol Site appraised then at \$3.2 million. The United States government has made an offer of \$3 million for the site. They plan to use the site in conjunction with the overall redevelopment of the international border crossing complex due for completion in the next 6 to 7 years.

Real Estate Assets staff concurs that the \$3 million dollar offer for the property is an accurate reflection of current market conditions.

FISCAL CONSIDERATIONS:

All proceeds from the sale of the property will be deposited in the Capital Outlay Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council approval of property sale May 2007, Resolution R-302652.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City of San Diego will benefit by receipt of the sale proceeds, and join with the surrounding communities and entire state with the benefit of the new international border crossing facility when completed.

Barwick/Anderson

Staff: David Sandoval - (619) 236-5548
Brock Ladewig - Chief Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-108: San Diego Operation Clean Sweep Day.

[?View referenced exhibit back-up material.](#)

COUNCILMEMBER HUESO'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1092)

Proclaiming June 7, 2008, to be "San Diego Operation Clean Sweep Day" in recognition of the volunteers, businesses, government agencies, environmental groups and others that contribute to the region's prosperity and quality of life protecting and preserving San Diego Bay.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-109: Agreement with Latham & Watkins LLP to Provide Legal Services in Connection with AFCSME Local 127 and San Diego Municipal Employees' Association vs. City of San Diego.

[?View referenced exhibit back-up material.](#)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-844 Cor. Copy)

Authorizing the City Attorney to retain Latham & Watkins LLP for the provision of legal services in AFCSME Local 127 and San Diego Municipal Employees' Association vs. City of San Diego, Case No. LA-CE-352-M, in an amount not to exceed \$675,000;

Authorizing the City Auditor and Comptroller to allocate the cost of the agreement using the Fiscal Year 2008 FTE Cost Allocation Table;

Authorizing the City Auditor and Comptroller to expend up to \$498,825 from the Public Liability Fund on this matter;

Authorizing the City Auditor and Comptroller to expend up to \$176,175 from the Enterprise Funds.

SUPPORTING INFORMATION:

\$675,000 has been approved for this matter in Closed Sessions to date. The City has been invoiced approximately \$501,000 through December 31, 2007.

In the Closed Session Meeting of March 6, 2007, the City Council voted on Item CS-5, AFSCME Local 127 v. City of San Diego, Unfair Practice Charge No. LA-CE-352-M, to authorize the City Attorney to hire Latham & Watkins for an amount not to exceed \$50,000 to be paid from unallocated reserves. The motion was made by Councilmember Frye and seconded by Councilmember Faulconer. The motion passed 7 to 0 with Councilmember Atkins recused.

In the Closed Session Meeting of September 4, 2007, the City Council voted on Item CS-5, AFSCME Local 127 v. City of San Diego, Unfair Practice Charge No. LA-CE-352-M, to authorize an increase in outside counsel, Latham & Watkins, fees up to \$250,000.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-109: (Continued)

SUPPORTING INFORMATION: (Continued)

The motion was made by Council President Pro Tem Young and seconded by Council President Peters. The motion passed 7 to 0 with Councilmember Faulconer absent.

In the Closed Session Meeting of January 22, 2008, the City Council voted on Item CS-3, AFSCME Local 127 v. City of San Diego, Unfair Practice Charge No. LA-CE-352-M, to authorize an additional \$375,000 to defend the case at trial and if needed, the P.E.R.B. Appeal Hearing. The motion was made by Councilmember Frye and seconded by Councilmember Madaffer. The motion passed 6 to 0 with Councilmembers Faulconer and Atkins absent.

FISCAL CONSIDERATIONS:

The City shall compensate Latham & Watkins LLP based on its hourly rates for consulting services. This Agreement has a cumulative not-to-exceed amount of \$675,000. Using the FY2008 FTE Cost Allocation Table, up to \$498,825 will be borne by the General Fund and up to \$176,175 will be borne by the Enterprise Funds.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This is the initial request for approval of services for the above listed matter. The firm of Latham & Watkins LLP previously has provided employment law and advisory services to the City.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The City and its efforts to implement Propositions B and C Latham & Watkins LLP.

Tomanek

Aud. Cert. 2800676.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-110: Continuing Agreement with Latham & Watkins LLP to Provide Legal Services in Connection with McGuigan v. City of San Diego.

[?View referenced exhibit back-up material.](#)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-847)

Authorizing the City Attorney to continue retention of Latham & Watkins LLP for the provision of legal services in McGuigan v. City of San Diego, San Diego Superior Court Case No. GIC 849883 (California Court of Appeal Case No. D050291) and Newsome, III, v. San Diego City Employees Retirement System, et al., San Diego Superior Court Case No. GIC 856841, in an additional amount not to exceed \$75,000;

Authorizing the City Auditor and Comptroller to allocate the cost of the agreement using the Fiscal Year 2008 FTE Cost Allocation Table;

Authorizing the City Auditor and Comptroller to expend up to \$55,425 from the Public Liability Fund on this matter;

Authorizing the City Auditor and Comptroller to expend up to \$19,575 from the Enterprise Funds.

SUPPORTING INFORMATION:

This lawsuit was originally brought by former City employee, William McGuigan, alleging that the City violated state and local law by under funding the City's public employee pension system. The City settled the case in 2006 by agreeing to pay \$173 million to SDCERS over a period of five years. The settlement has been partially fund through the securitization of future tobacco settlement revenue, transfers of actual tobacco settlement revenue receipts, and additional employee "pick-up" savings.

The San Diego Police Officers' Association (SDPOA) filed an appeal, challenging the Court's judgment approving the settlement. The City is defending the settlement on appeal against the SDPOA's challenge to its fairness.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-110: (Continued)

SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

With this action the Council will authorize the City Auditor and Comptroller to expend up to \$75,000 using the FY2008 FTE Cost Allocation Table.

Latham & Watkins will proceed with the case on an hourly billing basis pursuant to the terms of their retainer agreement.

With this action the cumulative authorized for this matter is \$600,000; \$525,000 has been paid and \$19,593.32 in invoices have been received and are owing.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City Council on January 22, 2008, voted in Closed Session on Item CS-4, McGuigan v. City of San Diego, San Diego Superior Court Case No. GIC 849883 (California Court of Appeal Case No. D050291) and Newsome, III, v. San Diego City Employees Retirement System, et al., San Diego Superior Court Case No. GIC 856841, to authorize an additional \$75,000 for legal fees to defend on appeal (briefs and oral argument). The motion was made by Council President Pro Tem Madaffer and the second by Councilmember Frye. The motion passed 6 to 0 with Council Members Faulconer and Atkins absent.

On May 30, 2006, Council authorized retention of Latham & Watkins and authorized an amount not to exceed \$250,000. (R-301517)

On July 30, 2007, Council authorized the continued retention of Latham & Watkins and authorized an additional amount not to exceed \$275,000, for a cumulative authorized amount of \$525,000. (R-302894)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Law firm of Latham & Watkins.

Tomanek

Aud. Cert. 2800675.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

NOTE: This item may be taken in the morning session if time permits.

ITEM-330: Amendments to the San Diego Municipal Code Eliminating the Surplus Undistributed Earnings (“Waterfall”) Relating to the City Employees’ Retirement System. (Citywide.)

[?View referenced exhibit back-up material.](#)

(See memoranda from Council President Peters dated 4/25/2008, 4/8/2008, 11/8/2007, 8/27/2007, and 6/19/2007; and Independent Budget Analyst Reports No. 07-59 and 08-55.)

(Continued from the meetings of April 29, 2008, Item 331 and May 27, 2008, Item 330; last continued at the request of Councilmember Hueso, for further review.

COUNCIL PRESIDENT PETERS’ RECOMMENDATION:

Take **one** of the following actions:

Version A: SDCERS Draft Ordinance

Amending Chapter 2, Article 4, Division 15, of the San Diego Municipal Code, by repealing and adding Sections 24.1501 and 24.1502, amending Sections 24.1503 and 24.1504, and adding Section 24.1503.5, and repealing Section 24.1507, all relating to “Surplus Earnings” and the “Waterfall”.

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

OR

Version B: (O-2007-93 Cor. Copy) City Attorney Ordinance

Amending Chapter 2, Article 4, Division 9, of the San Diego Municipal Code, by amending Sections 24.0904 and 24.0906 and amending Chapter 2, Article 4, Division 15 of the San Diego Municipal Code, by repealing Sections 24.1501 and 24.1502 and amending Sections 24.1503, 24.1504, and repealing present Section 24.1507 and replacing it with new Section 24.1507, all relating to the “Waterfall”.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-331: Centre City Development Corporation Amended and Restated Bylaws - General.

[?View referenced exhibit back-up material.](#)

(See Centre City Development Corporation's Report No. CCDC-08-06.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Take the following actions:

Approving the Amended and Restated Bylaws of the Centre City Development Corporation;

Declaring that this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

SUPPORTING INFORMATION:

The following are the proposed substantive changes to the Corporation Bylaws:

- A director who misses four meetings during a 12-month period will automatically be removed from the Corporation Board of Directors ("Board"), subject to discretion of the Chair of the Board for exceptional circumstances;
- Directors who have been recused from a discussion do not count toward a quorum;
- Directors will not be compensated for attendance at meetings but can be reimbursed for expenses incurred in carrying out Corporation business upon approval by the Chair of the Budget/Finance and Administration Finance Committee;
- A director may resign from the Board or from an office by giving written notice to the Corporation;
- Directors will no longer have the option of filling vacancies if the City of San Diego acts in a timely manner;
- The Board Chair, rather than the full Board of Directors, will have the authority to appoint committee members;

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-331: (Continued)

SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

The changes to the Corporation Bylaws will eliminate compensation to the Board for meeting attendance but will allow reimbursement of expenses related to the discharge of their duties. This change should be revenue neutral.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On April 30, 2008, the Corporation Board reviewed the proposed changes to the Bylaws and voted unanimously in favor of the staff recommendation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

OTHER RECOMMENDATIONS:

None. The proposed changes to the Corporation Bylaws are not subject to Centre City Advisory Committee review.

Kaiser/Graham

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

NOTE: This item may be taken in the morning session if time permits.

ITEM-332: Authorization to Sell City-Owned Excess Real Estate and Approve Broker Commission. (University Community Area. District 1.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1099)

Declaring that certain real property (Property) owned in fee by the City, located at 3050 Callan Road, San Diego, CA 92121 (APN 340-010-45), further identified as Lot 10 of Torrey Pines Science Park #2, and further described in Attachment "A", is excess City property and maybe sold;

Declaring that the Property may only be sold for a price equal to or greater than Two Million Seven Hundred Sixty Thousand Dollars (\$2,760,000);

Directing the Mayor, or his designee, to have the Property re-appraised at least once every twelve months until sold, and the resulting fair market value of the Property shall become the minimum acceptable price, which the Mayor, or his designee, shall report to Council; provided, however, if a re-appraisal results in a fair market value below the minimum price set on the date of this Resolution, the Mayor shall seek Council approval prior to lowering the original minimum price;

Authorizing and directing the Mayor, or his designee, to sell the property through negotiation, public auction, sealed bids, or any combination of such methods, in his discretion;

Authorizing the Mayor, or his designee, in his discretion, to retain, on terms deemed by him to be reasonable and in the best interests of the City, the services of a real estate broker to represent the City and facilitate the sale of the Property, but real estate brokerage participation and brokerage fees shall not exceed 1.5% of the final sale price;

Authorizing the payment of real estate brokerage commissions related to the sale of the Property in compliance with San Diego Municipal Code Section 22.0905, Broker's Fee and Registration;

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-332: (Continued)

Authorizing the Mayor, or his designee, to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor, or his designee, to be reasonable and in the best interests of the City to consummate the sale;

Authorizing and directing the City Auditor and Comptroller to accept the proceeds of the sale of the Property, net of brokerage commissions and other costs of selling the Property, and deposit them into the appropriate fund(s);

Declaring that if after attempting to sell the Property at the minimum price specified herein, the Mayor or his designee determines that the Property cannot be sold at or above the minimum acceptable price, the Mayor is directed to seek review and additional direction from the Council as to the disposition of the Property.

STAFF SUPPORTING INFORMATION:

As part of an overall portfolio management plan for the City's Real Estate Assets, the Mayor's staff is continuing their review of the City's property inventory to determine which properties are no longer needed and whose disposition will provide a greater public benefit. A City-owned property may be designated for disposition if:

- The property is not currently used by a City department or supports a municipal function.
- The property is vacant and has no foreseeable use by the City.
- The property is a non-performing or under-performing asset and greater value can be generated by its sale.

The referenced property has been analyzed and determined by the Mayor's staff to be excess to City needs and would best serve the City and its citizens if sold. The Property Information Summary Package contains all pertinent information about the property including its value as determined by a current appraisal and the reason for recommending its sale. The benefits to the City of disposing of this surplus property are as follows:

- The City will be relieved of potential liabilities and the cost of maintaining property that does not generate income or provide public benefit.
- Property tax increment will be created by returning the properties to the tax rolls.
- Stimulation of the economy by providing opportunities for private sector investment.
- Generation of revenue for the Capital Outlay Fund and Water Fund 41500.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Attached (Attachment "B") is a legal opinion from the City Attorney stating that by Council Policy and Municipal Code, the Mayor must take every property intended for sale to Council, justify each sale, and seek direction as to how the property will be sold. Because all questions regarding the right to sell and manner of sale will be predetermined by an enabling resolution, the proposed process for the sale of the City's properties does not conflict with the Municipal Code and the City Charter.

A Request for Proposal (RFP) for brokerage services was sent to the City's preferred vendor list. Each proposal was rated on its technical merit by an evaluation committee. The technical scores were then compared with the pricing proposals to select the brokerage firm to market this property.

This action requests approval of the best value proposals which do reflect, in this case, the lowest commission percentages that were received through the bid process described above (Attachment A), for the properties. CB Richard Ellis was selected as low bidder at 1.5%.

BACKGROUND: N/A

FISCAL CONSIDERATIONS:

All proceeds from the sale of the property, net of costs related to its sale, will be deposited in the Capital Outlay Fund as per City Charter Article VII unless otherwise noted in the summary sheet for the individual property. The total proceeds from this sale is estimated to be \$2,760,000.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders would be the City of San Diego which will benefit by: receipt of the sale proceeds; relief from future liability and maintenance expenses associated with the ownership of these properties; and additional property taxes from the return of these properties to the tax roles.

Barwick/Anderson

Staff: Jim Barwick - (619) 236-6145
Brock Ladewig – Chief Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

NOTE: This item may be taken in the morning session if time permits.

ITEM-333: TransNet Local Street and Road Program – 2008 Regional Transportation Improvement Program. (Citywide.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1124)

Authorizing the Mayor, or his designee, to make a submission for the 2008 Regional Transportation Improvement Program (RTIP) and confirming that the City of San Diego is in compliance with the TransNet Ordinances as required by SANDAG and outlined in the resolutions;

Declaring that pursuant to Section 2(C)(1) of the TransNet Extension Ordinance, the City of San Diego certifies that no more than 30 percent of its annual revenues shall be spent on maintenance-related projects;

Declaring that pursuant to Section 4(E)(3) of the TransNet Extension Ordinance, the City of San Diego certifies that all new projects, or major reconstruction projects, funded by TransNet revenues shall accommodate travel by pedestrians and bicyclists, and that any exception to this requirement permitted under the Ordinance and proposed, shall be clearly noticed as part of the City of San Diego's public hearing process;

Declaring that pursuant to Section 8 of the TransNet Extension Ordinance, the City of San Diego certifies that it has included an amount of local discretionary funding for street and road purposes in its budget for this Fiscal Year that is at least equal to the most recently established minimum maintenance of effort requirement adopted by SANDAG and that it intends to continue to do so in each year of the five-year period covered by the Regional Transportation Improvement Program (RTIP);

Declaring that pursuant to Section 9A of the TransNet Extension Ordinance, the City of San Diego certifies that it will extract an amount of \$2,000 from the private sector for each new construction residential housing unit in that jurisdiction to comply with the provisions of the Regional Transportation Congestion Improvement Program (RTCIP).

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-333: (Continued)

Declaring that pursuant to Section 13 of the TransNet Extension Ordinance, the City of San Diego certifies that it has established a separate Transportation Improvement Account for TransNet revenues with interest earned expended only for those purposes for which the funds were allocated;

Declaring that pursuant to Section 18 of the TransNet Extension Ordinance, the City of San Diego certifies that each project of \$250,000 or more will be clearly designated during construction with TransNet project funding identification signs;

Certifying that all other applicable provisions of TransNet Extension Ordinance have been met;

Agreeing to indemnify, hold harmless, and defend the SANDAG, the San Diego County Regional Transportation Commission, and all officers and employees thereof against all causes of action or claims to local TransNet funded projects;

Declaring that this activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

SANDAG, as the Metropolitan Planning Organization and the Regional Transportation Planning Agency, is required by state and federal laws to develop and adopt a Regional Transportation Improvement Program (RTIP). The RTIP is a multi-billion dollar, multi-year program of proposed projects for major highway, arterial, transit, and bikeway projects including the TransNet Program of Projects.

The San Diego Transportation Improvement Program Ordinance and Expenditure Plan extension provide that SANDAG, acting as the Regional Transportation Commission, shall approve a multi-year program of projects submitted by local jurisdictions identifying those transportation projects eligible to use transportation sales tax (TransNet) funds. The 2008 RTIP will cover the Fiscal Years 2009 through 2013.

The list of projects has been entered into SANDAG's Project Trak system for inclusion in the 2008 RTIP. The signed resolution adopted through this City Council action is due to SANDAG by June 30, 2008. The SANDAG Board is scheduled to adopt the 2008 RTIP on July 25, 2008. Projects included on the attachment are reflected in the proposed Fiscal Year 2009 Capital Improvement Program budget.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-333: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

No cost associated with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- City Council Resolution R-302769, dated June 29, 2007, authorized an amendment to the 2006 Regional Transportation Improvement Program (RTIP)
- City Council Resolution R-303554, dated April 14, 2008, approved the Regional Transportation Congestion Improvement Program (RTCIP) and associated fees

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Boekamp/Jarrell

Staff: Patti Boekamp - (619) 236-6274
Ryan Kohut - Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-334: Purchase and Installation of Street Lights – City Heights Redevelopment Project Area. (City Heights/Mid-City Community Area. District 3.)

[?View referenced exhibit back-up material.](#)

STAFF’S RECOMMENDATION:

Adopt the following resolution:

(R-2008-928)

Accepting the transfer of funds from the Redevelopment Agency to CIP-52-293.0, Annual Allocation-Installation of City-Owned Street Lights, Fund 10259, RDA Contributions to CIP;

Authorizing a \$95,738 increase in Fiscal Year 2008 Capital Improvements Program Budget in CIP-52-293.0, Annual Allocation-Installation of City-Owned Street Lights;

Authorizing the City Auditor and Comptroller to appropriate and expend the transfer of \$95,738 from Fund 10259, RDA Contributions for the purpose of increasing the funding of CIP-52-293.0 for the installation of street lights in City Heights;

Declaring that this activity is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15301(c).

STAFF SUPPORTING INFORMATION:

On February 25, 2008, an agreement was reached between the Redevelopment Agency (Agency) and Price Charities. The Agency asserted that Price Charities was obligated to reimburse the Agency for specific costs in the amount of \$95,783 incurred by the Agency related to the Price Charities City Heights Office and Townhome Project pursuant to the Disposition and Development Agreement of May 16, 2000, between Price Charities and the Agency. The Agency issued a demand for payment dated March 13, 2003. Price Charities disputed the amount of the charges and their obligation to pay the amount due stated in the demand letter of March 13, 2003.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-334: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

In order to bring resolution to this issue Price Charities agreed to grant the sum of \$95,738 to the Agency for the installation of additional street lights in City Heights. The requested actions will allow for the funds to be used for the installation of various street lights within the City Heights Redevelopment Project Area. Approximately 22 new street lights will be installed in the community with a total project cost of up to \$95,738. The new street lights will help to create a safe, walkable environment for City Heights residents, visitors, and merchants, and help generate economic vitality for this diverse community.

City Heights has a deficient inventory of street lights which has contributed to the existence of blight and substandard lighting conditions within the community. Community representatives and the office of Council District 3 have worked to identify areas in City Heights that are in need of new street lights. The general target area for the new street lights is within ten blocks of the Urban Village in City Heights: (see Attachment 1 - Locations for Street Light Installations). These locations are tentative and may change subject to SDG&E approval and/or easement acquisition. Please note this project will be managed by Engineering and Capital Projects through CIP -52-293.0.

FISCAL CONSIDERATIONS:

The total project cost for the street lights will be funded in total by the \$95,738 provided by Price Charities to the Agency. The annual cost for maintenance and electrical will be \$5,000.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Disposition and Development Agreement between San Diego Revitalization Corporation (Price Charities) and the Redevelopment Agency was approved on May 16, 2000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On May 12, 2008, the Project Area Committee (PAC) recommended approval of the purchase and installation of street lights in City Heights (11-4-0).

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Property owners, residents, visitors, and merchants located near the Urban Village in City Heights.

Weinrick/Anderson

Staff: Melissa Garcia - (619) 236-6547
Carol A. Leone - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of June 17, 2008, for a companion item.

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-335: Linda Vista Road Center. Rezone three contiguous parcels from CN-1-2 to CC-1-1, an Easement Vacation and a Planned Development Permit to develop an 8,046 square foot retail center on a 60,134 square foot site located at 7625-7631 Linda Vista Road. (Linda Vista Community Plan Area. District 6.)

[?View referenced exhibit back-up material.](#)

Matter of approving, conditionally approving, modifying, or denying a Rezone of three contiguous parcels from CN-1-2 to CC-1-1, an Easement Vacation and a Planned Development Permit to develop an 8,046 square foot retail center on a 60,134 square foot site located at 7625-7631 Linda Vista Road within the Linda Vista Community Plan.

*** Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.**

(MND LDR No. 108435/MMRP/RZ No. 361571/PDP No. 532247/Easement Vacation No. 532246/Project No. 108435.)

STAFF'S RECOMMENDATION:

Adopt the resolutions in Subitems A, C, and D; and introduce the ordinance in Subitem B:

Subitem-A: (R-2008-1070)

Adoption of a Resolution certifying Mitigated Negative Declaration LDR No. 108435 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a rezone, easement vacation and planned development permit for the Linda Vista Road Center project;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

Subitem-A: (Continued)

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the Office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (O-2008-158)

Introduction of an Ordinance of the Council of the City of San Diego changing 2.33 acres located at 7625-7631 Linda Vista Road, within the Linda Vista Community Plan Area, in the City of San Diego, California, from the CN-1-2 Zone into the CC-1-1 Zone, as defined by San Diego Municipal Code Section 131.0507, and repealing Resolution No. R-301263, adopted February 28, 2006, of Resolutions of the City of San Diego insofar as the same conflicts herewith.

Subitem-C: (R-2008-1085)

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference, with respect to Planned Development Permit No. 532247;

That Planned Development Permit No. 532247 is granted to GTF Properties, a California Limited Partnership, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

Subitem-D: (R-2008-1078)

Adoption of a Resolution certifying that the Council of the City of San Diego finds that:

- (a) There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated.
- (b) The public will benefit from the action through improved utilization of the land.
- (c) The vacation is consistent with the General Plan or an approved Community Plan.
- (d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this vacation.

Declaring that the Council of the City of San Diego finds:

1. That the slope easement located within Mesa College Drive between Linda Vista Road and Highway 163 southbound on-ramp in connection with Planned Development Permit No. 532247, as more particularly described in the legal description marked as Exhibit "A," and as shown on Drawing No. 20833-B, marked as Exhibit "B," and on file in the Office of the City Clerk, is ordered vacated reserving therefrom general utility and public utility easements for utilities together with ingress and egress for that purpose;
2. That the City Clerk shall cause a certified copy of this Resolution, with attached Exhibits, attested by her under Seal, to be recorded in the Office of the County Recorder.

OTHER RECOMMENDATIONS:

Planning Commission on May 8, 2008 voted 4-1-2 to recommend approval, with the recommendation that the applicant make an effort to work with sustainable building and site techniques to enhance environmental performance and reduce the carbon footprint, and redesign site plan to have new structures close to the street with additional parking at the rear.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

Ayes: Shultz, Naslund, Griswold, Ontai

Nays: Otsuji

Abstaining: Smiley (absent)

(One vacancy)

The Linda Vista Planning Committee has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approve, modify or deny a request for a Rezone of three contiguous parcels from CN-1-2 to CC-1-1, an Easement Vacation and a Planned Development Permit to develop an 8,046 square foot retail center on a 60,134 square foot site located at 7625-7631 Linda Vista Road within the Linda Vista Community Plan area.

STAFF RECOMMENDATION:

1. Recommend that the City Council **Certify** Mitigated Negative Declaration No. 108435 and **Adopt** the Mitigation Monitoring and Reporting Program;
2. Recommend that the City Council **Adopt** Rezone No. 361571;
3. Recommend that the City Council **Approve** Easement Vacation No. 532246 and Planned Development Permit No. 532247.

EXECUTIVE SUMMARY:

The proposed Linda Vista Road Center project would include the development of an 8,046 square foot retail center on an infill site comprised of three lots. The site is proposed to be rezoned from CN-1-2 to CC-1-1 to allow for a drive-through use and would vacate a landscape easement adjacent to Mesa College Drive.

The project proposes the construction of two new buildings totaling 5,774 square feet for neighborhood commercial uses and a 2,272 square foot retail use structure to remain. The project would consist of one-story development approximately 30'-0" in height with architectural details and projections, and front on Linda Vista Road. The height and bulk is comparable to structures to the west and south and is less than the residential development to the north. The applicant is proposing the two new structures to contain food services including one drive-through. It is a condition of the draft permit that the hours of operation be limited from 6am to 12 midnight.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The development would include deviations to development regulations for maximum setback and building articulation on Mesa College Drive and maximum lot depth. None of these deviations have been determined to have significant impacts per the California Environmental Quality Act. A Mitigated Negative Declaration was prepared for this project and identified the potential for transportation impacts which will be mitigated through the collection of a fair-share contribution of 15.8 percent of the cost of the construction of a raised center median on Linda Vista Road from Markham Drive to Baltic Street.

FISCAL CONSIDERATIONS:

None with this action. The costs associated with the processing of this project are covered by the applicant. The project includes the vacation of existing landscape easement and the granting of new easements to accommodate relocated public utilities. The easement requested to be vacated was granted at no cost to the City by Caltrans after completion of Highway 163 on-ramp improvements.

PREVIOUS COMMITTEE ACTION

Planning Commission Recommendation: On May 8, 2008, the Planning Commission voted 4-1-2 to recommend approval of the project with the recommendation that the applicant make an effort to work with sustainable building and site techniques to enhance environmental performance and reduce the carbon footprint, and redesign site plan to have new structures closer to the street with the parking at the rear.

The applicant has since provided a statement that it will target a sustainable design and completed project at a basic "Certified" level (26 points), in accordance with the methodology of the USGBC's LEED program. In addition, to help offset the "carbon footprint", the proposed landscape plantings will provide plant points which exceed the City of San Diego Landscape Regulations by nearly 20 percent. An alternate site layout was considered by the applicant, moving the new buildings closer to the street to provide a larger pedestrian patio area. Drawbacks to this layout were revealed, including a loss of parking spaces bringing the total parking ratio to an undesirable level of below 5/1000 sf; and an awkward vehicular exit which would conflict with ingress traffic at the street driveway, or require an additional driveway opening to the street which is also un-desirable. The applicant maintains that in the site design as presented, pedestrian access was an important consideration in the design and layout of the project. A pedestrian pathway enhanced with upgraded materials and landscaping is provided from the street sidewalk to the patio and buildings, and a two-building layout was designed to provide pedestrian access to all areas of the site.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

There were no speakers in opposition at the Planning Commission Recommendation Hearing.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 26, 2007, the Linda Vista Planning Committee voted 12-1-0 to recommend approval of the project with no conditions.

KEY STAKEHOLDERS:

GTF Properties; Gordon T. Frost, Jr.

Anderson/Broughton

LEGAL DESCRIPTION:

The project site is located at 7631 Linda Vista Road in the Linda Vista community and is more particularly described as Lot 3 Artillery Square Unit No. 2, Map No. 6266.

Staff: Jeannette Temple – (619) 557-7908

Andrea Contreras Dixon – Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-336: Jutland Drive Undergrounding Utility District. Creating the formation of the Underground Utility District. (Clairemont Mesa Community Plan Area. District 6.)

[?View referenced exhibit back-up material.](#)

NOTE: First hearing was held on May 27, 2008, Item 333.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-938)

Resolution establishing the Jutland Drive Underground Utility District for the Clairemont Planning Area.

STAFF SUPPORTING INFORMATION:

EXECUTIVE SUMMARY:

In accordance with San Diego Municipal Code (SDMC), Chapter 6, Article 1, Division 5, *Underground Utilities Procedural Ordinance* these actions will create the Jutland Drive Underground Utility District from Camino Coralina to Luna Ave and will underground all overhead utilities within the designated District.

In accordance with City Council Policy 600-08, *Underground Conversion of Utility Lines by Utility Company*, the proposed District is identified in CIP 37-028.0 and was approved per Council Resolution R-300572, as part of the FY 2006 Annual Allocation of Underground Utility Projects.

The formation of this district will require by Ordinance the removal and/or underground conversion of certain overhead power and communications wires with poles within the established boundary. The expense of the underground installation and removal of overhead facilities within the right-of-way (street and sidewalk area) will be the responsibility of the utility companies in accordance with California Public Utilities Commission (CPUC) Rules and Tariffs.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-336: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Replacement of street lighting, street restoration, tree replacement, pedestrian ramp installations, building permits, building and field engineering inspections, archeological monitoring, associated utility coordination of construction activities, and all associated engineering and project management associated with these improvements, will be financed through City of San Diego Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from San Diego Gas & Electric (SDGE).

By Ordinance, creation of this Underground Utility District will require all property owner(s) within said District to perform all necessary trenching and other related work to convert their property to receive electrical, telecommunication and cable television from an underground service, including all necessary permits. However, per agreement with the City of San Diego, SDGE will offer to property owner(s) within the Underground Utility District, to perform all the work necessary to convert private property, including necessary conduits for telephone and cable facilities, at no cost to the property owner(s). In order to take advantage of San Diego Gas & Electric's offer to perform this work, property owners are required to sign a Permit to Enter Form (PTE) and ensure their properties meet minimum conformance as outlined in the SDMC. Namely, that their electrical panels: (1) are deadfront operated, (2) have a grounding rod; and (3) have appropriate operating clearances.

Any necessary agreements between the City and utility companies associated with this work are subject to all applicable California Public Utility Commission (CPUC) Equal Opportunity Contracting guidelines and mandates. Any work that does not fall under the CPUC authority shall be subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-1873, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

The estimated construction cost of \$1,930,175 for electrical utility work within the public right-of-way and private property, will be financed through the use of SDG&E Rule 20 (A), as directed by the CPUC, Case 8209. Costs to convert AT&T and cable television is financed directly by AT&T and the cable companies per applicable CPUC tariffs and City franchise agreements.

Other indirect costs such as administration, archaeological monitoring, street light replacement, minor street improvements, and other related work is estimated at \$317,728 and will be financed through Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from SDG&E. These expenditures have been approved or will be approved by subsequent actions.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-336: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

PREVIOUS COUNCIL COMMITTEE ACTION:

City Council Resolution R-300572, FY2006 Annual Allocation of Undergrounding Projects, and associated Manager's Report 05-149.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

With notification of the Public Hearing, property owners and residents will be mailed an informational brochure about the City's Undergrounding Program including information as to how to contact and get more information via the Underground Program Information Line and the Underground Program via the internet, where they can access a monthly project status and sign up for email updates from the Underground Program Staff. Prior to the start of construction affected property owner(s) and/or tenant(s) are invited to a two hour community forum regarding the project and the construction process, get project maps and schedules, and speak to utility company representatives about individual questions.

During construction, e-mails will be periodically sent to those signed up, information regarding the status of their project, where the contractor is working and where he will be working next. Residents are provided door hangers with the contractors name and contact number and the City's contact name, number and internet address prior to work occurring on private property. Community Planning groups are added to all customer contact mailings and are notified of pre-construction meetings to discuss community issues directly with the contractor. Customer satisfaction surveys are used throughout the process and at project completion to identify systemic issues and improve customer service.

KEY STAKEHOLDERS:

Residents, businesses, and utility companies.

Boekamp/Jarrell/MG/NB

NOTE: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15302(d), and Public Utilities Commission General Order 131-D dated August 11, 1995.

Staff: Nathan Bruner – 619-533-7426

Ryan Kohut - Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-337: Altadena Avenue Undergrounding Utility District. Creating the formation of the Underground Utility District (Districts), and certification of the Mitigated Negative Declaration, Project No. 139574. (Mid-City/City Heights Community Plan Area. District 7.)

[?View referenced exhibit back-up material.](#)

NOTE: First hearing was held on May 27, 2008, Item 332.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-935)

Resolution establishing the Altadena Avenue Underground Utility District for the Mid-City, City Heights Planning Area.

Subitem-B: (R-2008-936)

Certifying that the Mitigated Negative Declaration, Project No. 139574 dated April 23, 2008, (MDN), which is on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (California Public Resources Code 21000 et. seq.), as amended, and the State guidelines thereto, (California Code of Regulations, Title 14, Chapter 3), that the MDN reflects the independent judgment of the City of San Diego as Lead Agency, and that the information in the MDN, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the creation of the following underground utility districts;

That the Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated by reference, pursuant to California Public Resources Code Section 21081.6;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-337: (Continued)

Subitem-B: (Continued)

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

STAFF SUPPORTING INFORMATION:**EXECUTIVE SUMMARY:**

In accordance with San Diego Municipal Code (SDMC), Chapter 6, Article 1, Division 5, *Underground Utilities Procedural Ordinance* these actions will create the Altadena Avenue from El Cajon Blvd to Euclid Ave Underground Utility District and will underground all overhead utilities within the designated Districts.

In accordance with City Council Policy 600-08, *Underground Conversion of Utility Lines by Utility Company*, the proposed Districts are identified in CIP 37-028.0 and were approved per Council Resolution R-300572, as part of the FY 2006 Annual Allocation of Underground Utility Projects.

The formation of the districts will require by Ordinance the removal and/or underground conversion of certain overhead power and communications wires and poles within the established boundaries. The expense of the underground installation and removal of overhead facilities within the right-of-way (street and sidewalk area) will be the responsibility of the utility companies in accordance with California Public Utilities Commission (CPUC) Rules and Tariffs. Replacement of street lighting, street restoration, tree replacement, pedestrian ramp installations, building permits, building and field engineering inspections, archeological monitoring, associated utility coordination of construction activities, and all associated engineering and project management associated with these improvements, will be financed through City of San Diego Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from San Diego Gas & Electric (SDGE). By Ordinance, creation of the Underground Utility Districts will require all property owner(s) within said Districts to perform all necessary trenching and other related work to convert their property to receive electrical, telecommunication and cable television from an underground service, including all necessary permits. However, per agreement with the City of San Diego, SDGE will offer to property owner(s) within the Underground Utility Districts, to perform all the work necessary to convert private property, including necessary conduits for telephone and cable facilities, at no cost to the property owner(s).

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-337: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

In order to take advantage of San Diego Gas & Electric's offer to perform this work, property owners are required to sign a Permit to Enter Form (PTE) and ensure their properties meet minimum conformance as outlined in the SDMC. Namely, that their electrical panels: (1) are deadfront operated, (2) have a grounding rod; and (3) have appropriate operating clearances.

Any necessary agreements between the City and utility companies associated with this work are subject to all applicable California Public Utility Commission (CPUC) Equal Opportunity Contracting guidelines and mandates. Any work that does not fall under the CPUC authority shall be subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-1873, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

The estimated construction cost of \$4,149,418 for electrical utility work within the public right-of-way and private property, will be financed through the use of SDG&E Rule 20 (A), as directed by the CPUC, Case 8209. Costs to convert AT&T and cable television is financed directly by AT&T and the cable companies per applicable CPUC tariffs and City franchise agreements.

Other indirect costs such as administration, archaeological monitoring, street light replacement, minor street improvements, and other related work is estimated at \$616,002 and will be financed through Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from SDG&E. These expenditures have been approved or will be approved by subsequent actions.

PREVIOUS COUNCIL COMMITTEE ACTION:

City Council Resolution R-300572, FY2006 Annual Allocation of Undergrounding Projects, and associated Manager's Report 05-149.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

With notification of the Public Hearing, property owners and residents will be mailed an informational brochure about the City's Undergrounding Program including information as to how to contact and get more information via the Underground Program Information Line and the Underground Program via the internet, where they can access a monthly project status and sign up for email updates from the Underground Program Staff. Prior to the start of construction affected property owner(s) and/or tenant(s) are invited to a two hour community forum regarding the project and the construction process, get project maps and schedules, and speak to utility company representatives about individual questions.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-337: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

During construction, e-mail's will be periodically sent to those signed up, information regarding the status of their project, where the contractor is working and where he will be working next. Residents are provided door hangers with the contractors name and contact number and the City's contact name, number and internet address prior to work occurring on private property. Community Planning groups are added to all customer contact mailings and are notified of pre-construction meetings to discuss community issues directly with the contractor. Customer satisfaction surveys are used throughout the process and at project completion to identify systemic issues and improve customer service.

KEY STAKEHOLDERS:

Residents, businesses, and utility companies.

Boekamp/Jarrell/MG/NB

NOTE: The City of San Diego as Lead Agency under CEQA has prepared and completed a Mitigated Negative Declaration, Project No. 139574, dated April 23, 2008, and Mitigation, Monitoring and Reporting Program covering this activity.

Staff: Nathan Bruner – (619)533-7426
Ryan Kohut - Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-338: Various Surcharge Funded Undergrounding Utility Districts. Creating the formation of the Underground Utility Districts: Residential Project Block 3H (Talmadge 3); Residential Project Block 4Z (Paradise Hills North); Residential Project Block 6I (Bay Ho 2); and Patrick Henry High Block. (Various Community Planning Areas. Districts 3, 4, 6, and 7.)

[?View referenced exhibit back-up material.](#)

NOTE: First hearing was held on May 27, 2008, Item 335, Subitems A, B, C, and D.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-943)

Resolution establishing an Underground Utility District for Residential Project Block 3HH (Talmadge 3) financed through the City of San Diego Undergrounding Surcharge Fund.

Subitem-B: (R-2008-945)

Resolution establishing an Underground Utility District for Residential Project Block 4Z (Paradise Hills North) financed through the City of San Diego Undergrounding Surcharge Fund.

Subitem-C: (R-2008-947)

Resolution establishing an Underground Utility District for Residential Project Block 6I (Bay Ho) financed through the City of San Diego Undergrounding Surcharge Fund.

Subitem-D: (R-2008-949)

Resolution establishing an Underground Utility District for Patrick Henry High Block financed through the City of San Diego Undergrounding Surcharge Fund.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-338: (Continued)

STAFF SUPPORTING INFORMATION:**EXECUTIVE SUMMARY:**

In accordance with San Diego Municipal Code (SDMC), Chapter 6, Article 1, Division 5, Underground Utilities Procedural Ordinance these actions will create the Underground Utility Districts Residential Project Block 3HH (Talmadge 3); Residential Project Block 4Z (Paradise Hills North); Residential Project Block 6I (Bay Ho 2); and Patrick Henry High Block and will underground all overhead utilities within the designated Districts.

In accordance with City Council Policy 600-08, Underground Conversion of Utility Lines by Utility Company, the proposed Districts are identified in CIP-37-028.0 and were approved per Council Resolution R-300572, as part of the FY 2006 Annual Allocation of Underground Utility Projects.

The formation of these districts will require the removal and/or underground conversion of certain overhead power and communications wires with poles within the established boundary. The expense of the underground installation and removal of overhead electric facilities within the right-of-way will be financed through City of San Diego Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from San Diego Gas & Electric. The expense of the underground installation and removal of overhead facilities within the right-of-way for all other utilities will be the responsibility of the utility companies in accordance with California Public Utilities Commission Rules.

Replacement of street lighting, street restoration, tree replacement, pedestrian ramp installations, building permits, building and field engineering inspections, archeological monitoring, associated utility coordination of construction activities, and all associated engineering and project management associated with these improvements, will be financed through City of San Diego Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from San Diego Gas & Electric (SDGE).

By Ordinance, creation of these Underground Utility Districts will require all property owner(s) within said Districts to perform all necessary trenching and other related work to convert their property to receive electrical, telecommunication and cable television from an underground service, including all necessary permits. However, per agreement with the City of San Diego, SDGE will offer to property owner(s) within the Underground Utility Districts, to perform all the work necessary to convert private property, including necessary conduits for telephone and cable facilities, at no cost to the property owner(s).

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-338: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

In order to take advantage of San Diego Gas & Electric's offer to perform this work, property owners are required to sign a Permit to Enter Form (PTE) and ensure their properties meet minimum conformance as outlined in the SDMC. Namely, that their electrical panels: (1) are deadfront operated, (2) have a grounding rod; and (3) have appropriate operating clearances.

Any necessary agreements between the City and utility companies associated with this work are subject to all applicable California Public Utility Commission (CPUC) Equal Opportunity Contracting guidelines and mandates. Any work that does not fall under the CPUC authority shall be subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-1873, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

The construction cost and other indirect costs such as administration, street light replacement, street improvement, minor City forces, and other related work is estimated at \$34,657,544. Funds will be available in Fund 30100, Undergrounding Surcharge Fund, contingent upon receipt of funds from San Diego Gas & Electric.

PREVIOUS COUNCIL COMMITTEE ACTION:

City Council Resolution R-300572, FY2006 Annual Allocation of Undergrounding Projects, and associated Manager's Report 05-149.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

With notification of the Public Hearing, property owners and residents will be mailed an informational brochure about the City's Undergrounding Program including information as to how to contact and get more information via the Underground Program Information Line and the Underground Program via the internet, where they can access a monthly project status and sign up for email updates from the Underground Program Staff. Prior to the start of construction affected property owner(s) and/or tenant(s) are invited to a two hour community forum regarding the project and the construction process, get project maps and schedules, and speak to utility company representatives about individual questions.

During construction, e-mails will be periodically sent to those signed up, information regarding the status of their project, where the contractor is working and where he will be working next. Residents are provided door hangers with the contractors name and contact number and the City's contact name, number and internet address prior to work occurring on private property.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-338: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Community Planning groups are added to all customer contact mailings and are notified of pre-construction meetings to discuss community issues directly with the contractor. Customer satisfaction surveys are used throughout the process and at project completion to identify systemic issues and improve customer service.

KEY STAKEHOLDERS:

Residents, businesses, and utility companies.

Boekamp/Jarrell/MG/NB

NOTE: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15302(d), and Public Utilities Commission General Order 131-D, dated August 11, 1995.

Staff: Nathan Bruner – (619) 533-7426
Ryan Kohut - Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-339: Various Surcharge Funded Undergrounding Utility Districts. Creating the formation of the Underground Utility Districts: Residential Project Block 2T (Pacific Beach North); Residential Project Block 7A (Fox, Canyon); and Residential Project Block 8B (Sherman Heights 3) and certification of the Mitigated Negative Declaration, Project No. 139574. (Various Community Planning Areas. Districts 2, 7, and 8.)

[?View referenced exhibit back-up material.](#)

NOTE: First hearing was held on May 27, 2008, Item 334, Subitems A, B, and C.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-952)

Resolution establishing an Underground Utility District for Residential Project Block 2T (Pacific Beach North) financed through the City of San Diego Underground Surcharge Fund.

Subitem-B: (R-2008-954)

Certifying that the Mitigated Negative Declaration, Project Nos. 139587, 139592, and 139593 dated April 23, 2008, (MDN), which is on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (California Public Resources Code Section 21000 et. seq.), as amended, and the State Guidelines thereto, (California Code of Regulations, Title 14, Chapter 3), that the MDN reflects the independent judgment of the City of San Diego as Lead Agency, and that the information in the MDN, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the creation of the following underground utility districts;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-339: (Continued)

Subitem-B: (Continued)

That the Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated by reference, pursuant to California Public Resources Code Section 21081.6;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-C: (R-2008-955)

Resolution establishing an Underground Utility District for Residential Project 7A (Fox Canyon) financed through the City of San Diego Undergrounding Surcharge Fund.

Subitem-D: (R-2008-957)

Certifying that the Mitigated Negative Declaration, Project Nos. 139587, 139592, and 139593 dated April 23, 2008, (MDN), which is on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (California Public Resources Code Section 21000 et. seq.), as amended, and the State Guidelines thereto, (California Code of Regulations, Title 14, Chapter 3), that the MDN reflects the independent judgment of the City of San Diego as Lead Agency, and that the information in the MDN, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the creation of the following underground utility districts;

That the Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated by reference, pursuant to California Public Resources Code Section 21081.6;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-339: (Continued)

Subitem-E: (R-2008-958)

Resolution establishing an Underground Utility District for Residential Project 8B (Sherman Heights) financed through the City of San Diego Undergrounding Surcharge Fund.

Subitem-F: (R-2008-960)

Certifying that the Mitigated Negative Declaration, Project Nos. 139587, 139592, and 139593 dated April 23, 2008, (MDN), which is on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (California Public Resources Code Section 21000 et. seq.), as amended, and the State Guidelines thereto, (California Code of Regulations, Title 14, Chapter 3), that the MDN reflects the independent judgment of the City of San Diego as Lead Agency, and that the information in the MDN, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the creation of the following underground utility districts;

That the Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated by reference, pursuant to California Public Resources Code Section 21081.6;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

STAFF SUPPORTING INFORMATION:

EXECUTIVE SUMMARY:

In accordance with San Diego Municipal Code (SDMC), Chapter 6, Article 1, Division 5, Underground Utilities Procedural Ordinance these actions will create the Underground Utility Districts Residential Project Block 2T (Pacific Beach North); Residential Project Block 7A (Fox Canyon); and Residential Project Block 8B (Sherman Heights 3) and will underground all overhead utilities within the designated Districts.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-339: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

In accordance with City Council Policy 600-08, Underground Conversion of Utility Lines by Utility Company, the proposed Districts are identified in CIP-37-028.0 and were approved per Council Resolution R-300572, as part of the FY 2006 Annual Allocation of Underground Utility Projects.

The formation of these districts will require the removal and/or underground conversion of certain overhead power and communications wires with poles within the established boundary. The expense of the underground installation and removal of overhead electric facilities within the right-of-way will be financed through City of San Diego Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from San Diego Gas & Electric. The expense of the underground installation and removal of overhead facilities within the right-of-way for all other utilities will be the responsibility of the utility companies in accordance with California Public Utilities Commission Rules.

Replacement of street lighting, street restoration, tree replacement, pedestrian ramp installations, building permits, building and field engineering inspections, archeological monitoring, associated utility coordination of construction activities, and all associated engineering and project management associated with these improvements, will be financed through City of San Diego Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from San Diego Gas & Electric (SDGE).

By Ordinance, creation of these Underground Utility Districts will require all property owner(s) within said Districts to perform all necessary trenching and other related work to convert their property to receive electrical, telecommunication and cable television from an underground service, including all necessary permits. However, per agreement with the City of San Diego, SDGE will offer to property owner(s) within the Underground Utility Districts, to perform all the work necessary to convert private property, including necessary conduits for telephone and cable facilities, at no cost to the property owner(s). In order to take advantage of San Diego Gas & Electric's offer to perform this work, property owners are required to sign a Permit to Enter Form (PTE) and ensure their properties meet minimum conformance as outlined in the SDMC. Namely, that their electrical panels: (1) are deadfront operated, (2) have a grounding rod; and (3) have appropriate operating clearances.

Any necessary agreements between the City and utility companies associated with this work are subject to all applicable California Public Utility Commission (CPUC) Equal Opportunity Contracting guidelines and mandates.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-339: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Any work that does not fall under the CPUC authority shall be subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-1873, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

The construction cost and other indirect costs such as administration, street light replacement, street improvement, minor City forces, and other related work is estimated at \$27,318,219. Funds will be available in Fund 30100, Undergrounding Surcharge Fund, contingent upon receipt of funds from San Diego Gas & Electric.

PREVIOUS COUNCIL COMMITTEE ACTION:

City Council Resolution R-300572, FY2006 Annual Allocation of Undergrounding Projects, and associated Manager's Report 05-149.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

With notification of the Public Hearing, property owners and residents will be mailed an informational brochure about the City's Undergrounding Program including information as to how to contact and get more information via the Underground Program Information Line and the Underground Program via the internet, where they can access a monthly project status and sign up for email updates from the Underground Program Staff. Prior to the start of construction affected property owner(s) and/or tenant(s) are invited to a two hour community forum regarding the project and the construction process, get project maps and schedules, and speak to utility company representatives about individual questions.

During construction, e-mails will be periodically sent to those signed up, information regarding the status of their project, where the contractor is working and where he will be working next. Residents are provided door hangers with the contractors name and contact number and the City's contact name, number and internet address prior to work occurring on private property. Community Planning groups are added to all customer contact mailings and are notified of pre-construction meetings to discuss community issues directly with the contractor. Customer satisfaction surveys are used throughout the process and at project completion to identify systemic issues and improve customer service.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-339: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

KEY STAKEHOLDERS:

Residents, businesses, and utility companies.

Boekamp/Jarrell/MG/NB

NOTE: The City of San Diego as Lead Agency under CEQA has prepared and completed a Mitigated Negative Declaration, Project Nos. 139587, 139592, and 139593 dated April 23, 2008, and Mitigation, Monitoring and Reporting Program covering this activity.

Staff: Nathan Bruner – (619) 533-7426
Ryan Kohut - Deputy City Attorney

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT

http://docs.sandiego.gov/councildockets_attach/2008/June/06-16-2008_Item_252.pdf