

002201

REQUEST FOR COUNCIL ACTION
 CITY OF SAN DIEGO
1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)

334

12/02

TO: CITY ATTORNEY	2. FROM: (ORIGINATING DEPARTMENT) CITY PLANNING & COMMUNITY INVESTMENT	3. DATE November 14, 2008
4. SUBJECT: Enter into a Letter of Intent with the City of San Diego, City of Santee, and Pardee Homes to pursue jurisdictional reorganization.		
5. PRIMARY CONTACT (NAME, PHONE, MAIL STA.) Tait Galloway, 533-4550, MS-4A	6. SECONDARY CONTACT (NAME, PHONE, MAIL STA.) Christine Rothman, 533-4528, MS-4A	7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED: <input checked="" type="checkbox"/>

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST: Entering into a non binding Letter of Intent. No cost to the City. Pardee Homes has agreed to pay for all associated costs with the LOI and the potential LAFCO approval process.
DEPARTMENT					
ORGANIZATION					
OBJECT ACCOUNT					
JOB ORDER					
C.I.P. NUMBER					
AMOUNT					

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	
1	ORIGINATING DEPARTMENT	<i>Mary Wright</i> MARY WRIGHT	11/14/08	8	DEPUTY CHIEF	<i>William Anderson</i> WILLIAM ANDERSON	11-14-08	
2	DSD/EAS	<i>Martha Blake</i> MARTHA BLAKE	11/14/08	9	COO			
3	COUNCIL LIAISON	ED PLANK		10	CITY ATTORNEY	<i>Ed Plank</i>	11/19/08	
4	EOCP	EXEMPT PER MEMO DATED 11-15-05		11	ORIGINATING DEPARTMENT	<i>C. Rothman</i> CHRISTINE ROTHMAN	11-14-08	
5				✓	DOCKET COORD:		COUNCIL LIAISON: <i>SC</i> 11/19/08	
6					COUNCIL PRESIDENT	<input type="checkbox"/> SPOB	<input type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> ADOPTION
7					<i>MS</i>	<input type="checkbox"/> REFER TO:	COUNCIL DATE: 12/2/08	

11. PREPARATION OF: RESOLUTION(S) ORDINANCE(S) AGREEMENT(S) DEED(S)

Resolution authorizing the Mayor to enter into a non-binding Letter of Intent ("LOI") between the City of San Diego, the City of Santee, and Pardee Homes to pursue discussions concerning the reorganization of jurisdictional boundaries for Pardee Home's proposed development project.

11A. STAFF RECOMMENDATIONS:
ADOPT THE RESOLUTION.

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): 7

COMMUNITY AREA(S): EAST ELLIOTT

ENVIRONMENTAL IMPACT: This activity is exempt from CEQA pursuant to State CEQA Guidelines, Section 15061(b)(3).

HOUSING IMPACT: NOT APPLICABLE AT THIS TIME

OTHER ISSUES: NOT APPLICABLE AT THIS TIME

002203

EXECUTIVE SUMMARY SHEET

DATE ISSUED: November 13, 2008
ATTENTION: Honorable President Peters and Members of the City Council
Docket of December 2, 2008
ORIGINATING DEPT.: City Planning & Community Investment
SUBJECT: Letter of Intent ("LOI") with the City of Santee and Pardee Homes to Pursue
Jurisdictional Reorganization
Council District: 7
Staff Contact: Tait Galloway, (619) 533-4550

REQUESTED ACTION:

Approval of Resolution to enter into a Letter of Intent with the City of San Diego, City of Santee, and Pardee Homes to pursue Jurisdictional Reorganization.

STAFF RECOMMENDATION:

Approve the requested action.

EXECUTIVE SUMMARY:

The proposed non-binding letter of intent ("LOI") by and between the City of San Diego, the City of Santee, and Pardee Homes expresses the general intent of San Diego and Santee to pursue discussions associated with the reorganization of their jurisdictional boundaries in the event that San Diego was to approve Pardee Home's proposed 117 acre Castlerock development project and support the reorganization. On October 8, 2008, the Santee City Council voted 3-1 to entering into the LOI. The proposed Castlerock project consists of 424 single family detached homes and is located within the East Elliott community plan area of the City of San Diego. The East Elliott Community Plan contains the language that supports annexation of the property to Santee.

The Project is currently subject to the Injunction in the case entitled *Southwest Center for Biological Diversity v. Bartel* 470 F.Supp.2d 1118 (9th Cir. 2006). As such, the Parties acknowledge and agree that all direction and principles set forth in this LOI could only take affect after the Project has been approved by San Diego. Furthermore, this LOI is expressly subject to any duties, responsibilities, and restrictions which may arise from resolution of the Injunction as it pertains to the Project.

The LOI contains principles and issues that San Diego and Santee would need to analyze in order to formulate a recommendation concerning the jurisdictional reorganization. The issues include the costs of providing and maintaining public services if the property were to remain in San Diego or to be annexed in the Santee. These services include, but would not be limited to public safety, water, wastewater, parks, libraries, and trash collection. The analysis would also address any needed facilities, equipment, or agreements with other agencies to ensure acceptable police and fire response times. Issues concerning development standards, entitlements, affordable housing, and fees, tax revenue will also need to be addressed. These discussions will provide more detailed information to assist the City Council decision concerning the approval of the proposed Castlerock development project.

The information for addressing these issues could be contained in a subsequent agreement with Santee and Pardee such as an annexation agreement and/or revenue allocation agreement that the City Council could consider as part the development project approval. The City Council will have two options for

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approving the development project. It could be approved with the property remaining in San Diego or it could be approved conditionally upon its detachment from San Diego and annexation into Santee. The environmental document for the project will also identify potential environmental impacts associated with alternatives for the property remaining in San Diego or being annexed into the Santee.

For the reorganization to occur, the San Diego City Council would need to approve the development project conditionally upon the reorganization occurring and entering into any applicable agreements with Santee, Santee would need to support the reorganization, and the San Diego County Local Agency Formation Commission (LAFCO) would need to approve the reorganization. To approve the Reorganization, LAFCO would need to consider different factors related to land use and the provision of public services. Primarily, LAFCO will need to determine if Santee and Padre Dam Municipal Water District could provide public services, including but not limited to public safety, water, and wastewater more efficiently than San Diego.

FISCAL CONSIDERATIONS:

There is no cost to the City to enter into the LOI. Pardee Homes has agreed to pay for all associated costs with the LOI and the potential LAFCO approval process.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

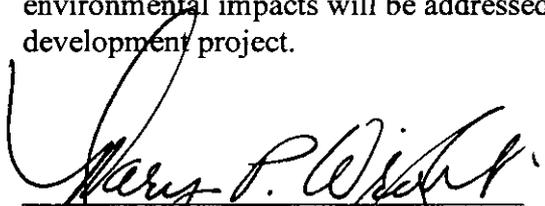
On October 13, 2008, the City Council voted 7-1 to have the City Attorney Office and City staff review the LOI and to bring this item back to the City Council.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

The recommendation that would result from the LOI discussions will be presented during the public approval process for the proposed Castlerock development project for the community to provide input.

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

City of Santee, Pardee Homes, and Padre Dam Municipal Water District are the key stakeholders. The environmental impacts will be addressed in the environmental document for the proposed Castlerock development project.



Mary P. Wright, AICP
Deputy Director – Planning Division
City Planning & Community Investment



William Anderson, FAICP
Deputy Chief Operating Officer
Land Use and Economic Development

Attachments:

- A. Proposed Letter of Intent with the City of Santee
- B. Outline of the Reorganization Process

**NON-BINDING LETTER OF INTENT
REGARDING A
JURISDICTIONAL REORGANIZATION PLAN**

Reference Date: _____, 2008

THIS NON-BINDING LETTER OF INTENT REGARDING A JURISDICTIONAL REORGANIZATION PLAN ("LOI") is made by and between THE CITY OF SAN DIEGO ("SAN DIEGO"), the CITY OF SANTEE ("SANTEE") and PARDEE HOMES, a California corporation ("PARDEE"). SAN DIEGO, SANTEE and PARDEE may collectively be referred to herein as the "Parties," and individually as a "Party," as follows:

RECITALS

- A. SAN DIEGO and SANTEE are each municipal corporations established and existing under the laws of the State of California and any applicable local charters.
- B. PARDEE is the owner and developer of the real property consisting of approximately 117 acres of land and depicted in **Exhibit 1** and described in **Exhibit 2**, attached hereto and incorporated herein (the "Property"). PARDEE has applied to SAN DIEGO for approval to build PARDEE'S proposed "Castlerock" housing development project (the "Project") on the Property, located within SAN DIEGO'S East Elliott Community Plan Area.
- C. The Project is adjacent to developed areas in the City of Santee, and relatively far from developed areas in the City of San Diego. Therefore, many of the potential impacts of the Project may be borne by SANTEE rather than SAN DIEGO, including without limitation potential impacts to roads, utilities, emergency services, park and recreation facilities, libraries and other public facilities and services. If SAN DIEGO were to approve the Project, a reorganization of SAN DIEGO'S and SANTEE'S jurisdictional boundaries to move the Property and the Project out of SAN DIEGO'S jurisdiction and into SANTEE'S jurisdiction (the "Reorganization") may help address such impacts and may be consistent with SAN DIEGO'S and SANTEE'S planning documents. SAN DIEGO'S East Elliott Community Plan contains the following:
- Due to a lack of nearby residential development or services in SAN DIEGO and proximity to residential areas, services and utilities in SANTEE, de-annexation of this 117 acre area to SANTEE should be considered if in the future SANTEE favors such an annexation.
- D. This LOI is made to express the general willingness of SAN DIEGO and SANTEE to implement the Reorganization on terms to be negotiated if and only if SAN

DIEGO approves the Project, and to express PARDEE'S general intent to cooperate with and facilitate the Reorganization.

- E. The Parties acknowledge that any approval of the Project by SAN DIEGO may be conditioned upon the Reorganization being completed.
- F. This LOI shall not be a legally binding agreement, or an amendment to any existing agreement. However, it contains some initial principles that may form the basis for the Reorganization.
- G. Although this LOI presents a suggested plan to implement the Reorganization if SAN DIEGO approves the Project, SAN DIEGO and SANTEE intend to follow any and all adopted laws, regulations, policies and procedures of their respective agencies, including as applicable to SAN DIEGO, City of San Diego Administrative Regulation 50.20, Annexation Procedures.
- H. **The Project is currently subject to the Injunction in the case entitled *Southwest Center for Biological Diversity v. Bartel* 470 F.Supp.2d 1118 (9th Cir. 2006). As such, the Parties acknowledge and agree that all direction and principles set forth in this LOI could only take affect after the Project has been approved by SAN DIEGO. Furthermore, this LOI is expressly subject to any duties, responsibilities, and restrictions which may arise from resolution of the Injunction as it pertains to the Project.**

NOW, THEREFORE, IN CONSIDERATION OF THE RECITALS ABOVE, and expressly conditioned upon SAN DIEGO'S approval of the Project, the Parties support the potential for the Reorganization, as follows:

- 1. If SAN DIEGO approves the Project, the Reorganization would generally mean the detachment of the Property within the development envelope of the proposed Project from SAN DIEGO, and annexation of the Property into SANTEE.
- 2. To implement the Reorganization, SANTEE would be designated as the "Lead Agency" for Local Agency Formation Commission ("LAFCO") purposes, but not for California Environmental Quality Act ("CEQA") purposes. As the Lead Agency, SANTEE would initiate a "Resolution of Initiation" or other appropriate document to San Diego LAFCO, and would work with affected property owner(s) to process any pre-zoning, entitlements, and/or other approvals required by LAFCO to complete the LAFCO application and review. SAN DIEGO would be designated as a "Responsible Agency" for LAFCO purposes and would initiate a "Resolution of Initiation" or other appropriate document to LAFCO, substantially similar to SANTEE'S. The Parties further anticipate that:
 - a. All environmental analyses would be included in the Environmental Impact Report ("EIR") currently being processed by SAN DIEGO for the Project; and
 - b. The Parties acknowledge that since SAN DIEGO'S approval of the Project would most likely be conditioned upon the Reorganization, resulting in the

annexation of the Property into SANTEE, SANTEE'S concerns related to the Project should be considered during SAN DIEGO'S review process.

3. The Parties acknowledge that a reorganization such as the Reorganization contemplated herein would most likely require a pre-annexation/development agreement setting forth in greater detail the process by which the Reorganization would be conducted, including without limitation certain matters relating to the development of the Project, and the allocation of related fees and future municipal revenues, if any, generated by the Project. Other issues that would need to be resolved and included in such a pre-annexation/development agreement may include without limitation, the following:
 - a. Financing structures that may be used for construction of infrastructure and other improvements related to the Project;
 - b. Responsibility for issuance of permits by SAN DIEGO and/or SANTEE, if SAN DIEGO approves the Project;
 - c. Transportation-related improvements contemplated to be constructed and the granting of necessary rights of way by SAN DIEGO and/or SANTEE;
 - d. Utility services to be provided by Padre Dam and to be constructed in accordance with Padre Dam design and performance criteria;
 - e. Emergency services to be provided by SAN DIEGO and/or SANTEE;
 - f. The timing of the Reorganization; and
 - g. Ownership of open space dedications related to the Property, the Project, and the Reorganization.
4. A fee and revenue allocation agreement related to the Reorganization may include without limitation provisions for the payment of processing fees, including without limitation building permit fees, the payment of any in-lieu housing fees, and the payment of other fees and tax revenues.
5. It is expected that upon completion of the Reorganization, SANTEE, subject to standard health, safety and welfare exceptions, would give full faith and credit to all entitlements for the Project received from SAN DIEGO, treating such entitlements as if they had been granted by SANTEE, including without limitation vesting tentative maps and/or final maps, zoning-related approvals, a final EIR, and other documentation required by CEQA, such as Mitigation, Monitoring and Reporting Program documentation and grading and building permits. Any bonds or other form of security posted by PARDEE with SAN DIEGO would likely be released and replaced by bonds or other security acceptable to SANTEE.
6. SANTEE acknowledges and agrees that if the Project is approved and the Reorganization is completed, SAN DIEGO is expected to receive credit toward its

San Diego Association of Governments ("SANDAG") housing allocation for the number of units in the Project.

7. The Parties will reasonably cooperate, at no cost to SANTEE or SAN DIEGO, with any consultants retained by PARDEE to prepare economic and fiscal analyses related to the Reorganization.
8. By making this LOI, neither SAN DIEGO'S nor SANTEE'S City Council is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to the Property, the Project, or the Reorganization. Discretionary action includes without limitation re-zonings, variances, environmental clearances, or any other governmental agency approvals which may be required or desired.
9. In light of the information currently available and actually known by the Parties, the Parties agree to cooperate with each other and to support the initial process that would result in the Reorganization if SAN DIEGO approves the Project.
10. This LOI shall not be construed as a commitment to approve or as an approval of the Project by SAN DIEGO or SANTEE. The Parties represent they have not entered or agreed to enter into any agreement to negotiate a definitive agreement pursuant to this LOI. Any Party may, at any time prior to the execution and delivery of any such definitive agreement, propose different terms from those summarized here, and may unilaterally terminate all negotiations without any liability whatsoever to the other Parties. PARDEE shall pay the reasonable fees, costs and other expenses incurred by SANTEE and SAN DIEGO in conjunction with the negotiation and preparation of this LOI and the negotiation and preparation of such a definitive agreement made following this LOI.
11. SAN DIEGO and SANTEE reserve their rights to exercise their discretion as to all matters which they are by law entitled or required. In addition, any agreements, amendments, or approvals processed by either city's City Council shall be subject to and considered in accordance with all applicable legal requirements.
12. This LOI may be executed in any number of counterparts, each of which shall be deemed an original, and shall collectively constitute one and the same document.
13. The LOI represents the entire understanding of the Parties regarding the subject matter herein. Any modification of this LOI shall be in writing and signed by the Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

14. Each individual executing this LOI on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this LOI on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement. Each person executing this Agreement on behalf of another person or legal entity shall provide evidence, satisfactory to the other Parties, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state, and that such entity is qualified to do business in California.

IN WITNESS WHEREOF, this LOI shall be effective as of the Effective Date.

Date: _____

PARDEE HOMES, a California corporation

BY: _____
Name: _____
Title: _____

Date: _____

THE CITY OF SANTEE, a California municipal corporation

BY: _____
Name: _____
Title: _____

Date: _____

THE CITY OF SAN DIEGO, a California municipal corporation

BY: _____
Name: _____
Title: _____

APPROVED AS TO FORM AND LEGALITY:

Date: _____

MICHAEL J. AGUIRRE, San Diego City Attorney

BY: _____
Name: _____
Title: _____

Date: _____

SHAWN HAGERTY, Santee City Attorney

BY: _____
Name: _____
Title: _____

Outline of the Potential Castlerock Reorganization Process

1) Letter of Intent with City of Santee and Pardee Homes

- (a) Review Services / Discuss Issues
- (b) Negotiate applicable Draft Agreements (Annexation/Development, Revenue, or Service)

2) Castlerock Development Project Hearings/Entitlements– City San Diego (SD):

- (a) Development Plans/EIR/Actions
- (b) Negotiated Agreements
- (c) Santee Support
 - Letter or Resolution from Santee concerning the project and Reorganization.
- (d) San Diego City Council Approves of the Project
 - Conditionally based upon the reorganization being approved
 - Resolution of Support for the Reorganization

3) LAFCO (Local Agency Formation Commission) Reorganization Process

- (a) Santee Resolution of Application to LAFCO
 - Resolution to support/enter into draft agreements
- (b) Santee Submits Reorganization Application to LAFCO
- (c) LAFCO Hearing - Actions:
 - Amend Sphere of Influence Boundary
 - Detach Property from San Diego
 - Annex Property to Santee

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RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER A LETTER OF INTENT ON BEHALF OF THE CITY OF SAN DIEGO RELATED TO A PROPOSED REORGANIZATION OF THE JURISDICTIONAL BOUNDARIES OF THE CITY OF SANTEE AND THE CITY OF SAN DIEGO.

WHEREAS, Pardee Homes, a California corporation [Pardee], is the owner and developer of the real property consisting of approximately 117 acres of land [Property] located within San Diego's East Elliott Community Plan Area; and

WHEREAS, Pardee has applied to San Diego for approval to build its proposed "Castlerock" housing development project [Project] on the Property; and

WHEREAS, the Project is adjacent to developed areas in the City of Santee, and relatively far from developed areas in the City of San Diego; therefore, many of the potential impacts of the Project may be borne by Santee rather than San Diego, including without limitation potential impacts to roads, utilities, emergency services, park and recreation facilities, libraries and other public facilities and services; and

WHEREAS, if San Diego were to approve the Project, a reorganization of San Diego's and Santee's jurisdictional boundaries to move the Property and the Project out of San Diego's jurisdiction and into Santee's jurisdiction [Reorganization] may help address such impacts and may be consistent with San Diego's and Santee's planning documents; and

WHEREAS, a Letter of Intent [LOI] has been proposed to express the general willingness of San Diego and Santee to implement the Reorganization on terms to be negotiated

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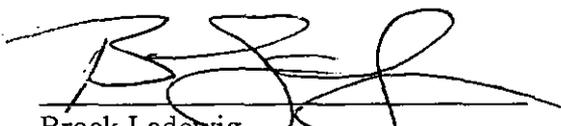
if and only if San Diego approves the Project, and to express Pardee's general intent to cooperate with and facilitate the Reorganization; and

WHEREAS, the making of the LOI by The City of San Diego, in light of the information currently available and actually known by the City, is in the best interests of the public health, safety, or welfare; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, the Mayor, or his designee, is authorized to execute and deliver the Letter of Intent on file in the Office of the City Clerk as Document No. RR-_____ related to a proposed reorganization of San Diego's and Santee's jurisdictional boundaries to move certain real property and a proposed "Castlerock" housing development project out of San Diego's jurisdiction and into Santee's jurisdiction.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Brock Ladewig
Chief Deputy City Attorney

BL:bas
11/17/08
Or.Dept: CP&CI
R-2009-690
MMS #7079

062215

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor