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UNAPPROVED

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THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, APRIL 28, 2008
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:04 p.m.. The meeting was adjourned by Council President Peters at 3:15 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Kai Kamp of Horizon Christian Fellowship.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

CS-1 *City of San Diego v. Tracy Means, et al.*
San Diego Superior Court Case No. GIC 858344/Appellate Court Case No. D051840

Tracy Means v. The City of San Diego
San Diego Superior Court Case No.: GIC 864419 (the City prevailed)

Tracy Means v. City of San Diego
A municipal corporation and a Political Subdivision of the State of California
U. S. District Court Case No. 08CV0580 WQH (Por)

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 29, 2008

DCA Assigned: J. Cordileone

Attorney Paula Rosenstein, acting on behalf of Tracy Means, former Deputy Director of the Airports Division of the City of San Diego's Department of Real Estate Assets wrote the City Council a letter on February 13, 2008, requesting global settlement of three cases between her and the City.

Closed Session Comment 1:

Paula Rosenstein commented on the merits of the case and the urgency of the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:06 p.m. - 3:11 p.m.)

Council President Peters closed the hearing.

CS-2 *City of San Diego v. Sunroad Enterprises et al.*
San Diego Superior Court Case No. GIC 877054

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 29, 2008

DCA Assigned: C. Brock

Case No. GIC 877054 was initiated by the City Attorney to abate the public nuisance created by Sunroad Enterprises' construction of a 12 story, 180 foot building which has been declared a "hazard" to air navigation at the City's Montgomery Field Airport by the Federal Aviation Administration ("FAA") Sunroad Enterprises cross-complained against the City claiming the City issued permits for the building and is responsible for any monetary loss Sunroad may incur. The City Attorney and outside counsel, Latham & Watkins, will discuss the status of the pending litigation, settlement, and associated costs.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):

Closed Session Comment 1:

Joy Sunyata commented on the need to settle litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:11 p.m. - 3:13 p.m.)

Council President Peters closed the hearing.

CS-3 Number of Potential Cases: Up to 50 (Voluntary Compliance Program Filing)

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 29, 2008

DCA Assigned: W. Chung

In closed session, the Mayor requests that Outside Counsel provide advice relating to proposed Pension System Changes included in the Voluntary Compliance Program Filing that may affect the pension benefits of employees, retirees and their beneficiaries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:06 p.m. - 3:07 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-4 Agency Negotiator: Steven Berliner, Richard Kreisler, Lisa Briggs, Scott Chadwick, Tanya Tomlinson, Thom Harpole, Abby Jarl, Hadi Dehghani, Val VanDeweghe, Rod Betts, Jessica Falk Michelli, William Gersten, Lori Thacker, and Alan Hersh

Employee Organizations: Municipal Employees Association, AFSCME Local 127 AFL-CIO, and Deputy City Attorney Association

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 29, 2008

DCAs Assigned: W. Gersten/J. Falk Michelli/L. Thacker/A. Hersh

Discussions regarding impasse on proposed impasse procedures.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:06 p.m. - 3:07 p.m.)

Council President Peters closed the hearing.

CS-5 Agency Negotiator: Steven Berliner, Richard Kreisler, Lisa Briggs, Scott Chadwick, Tanya Tomlinson, Thom Harpole, Abby Jarl, Hadi Dehghani, Val VanDeweghe, Rod Betts, Jessica Falk Michelli, William Gersten, Lori Thacker, and Alan Hersh

Employee Organizations: Municipal Employees Association, AFSCME Local 127 AFL-CIO, and Deputy City Attorney Association

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 29, 2008

DCAs Assigned: W. Gersten/J. Falk Michelli/L. Thacker/A. Hersh

The Mayor and City Council will be updated on the status of the labor negotiations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:06 p.m. - 3:07 p.m.)

Council President Peters closed the hearing.

ITEM-150: Professional Audit Consultant Recommendations for an Effective Internal Employee Hotline.

(See Jefferson Wells' 1/24/2008 report, 2/22/2008 memorandum, and 1/28/2008 PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-922) ADOPTED WITH DIRECTION AS RESOLUTION
R-303626

Accepting the Hotline Report, and related hotline memoranda from Jefferson Wells and the Office of Ethics and Integrity;

Implementing Recommendation 1 of the Hotline Report which states "Hotline Complaints Should Be Reported to the Audit Committee";

Implementing Recommendation 2 of the Hotline Report which states "Hotline Activity Should Be Reported to the Audit Committee and Audited";

Implementing Recommendation 3 of the Hotline Report which states that the "Hotline Number Should Be Publicized to All Citizens";

Implementing anticipation of possible Charter reform in June 2008, and as soon as is practicable, Recommendation 4 of the Hotline Report which advocates "Hotline Oversight by the Independent City Auditor".

AUDIT COMMITTEE'S RECOMMENDATION:

On 2/25/2008, Audit voted 3 to 0 to forward the recommendation to the full City Council.
(Councilmembers Faulconer, Atkins, and Young voted yea.)

The City's Audit Committee received and discussed a report from their professional audit consultant (Jefferson Wells) entitled "Analysis and Recommendations for an Effective Internal Employee Hotline" on January 28th and February 25th, 2008. Related hotline memoranda from Jefferson Wells and the Office of Ethics and Integrity were received and discussed by the Audit Committee on February 25th and March 24th, 2008. At these meetings, the Audit Committee unanimously adopted two motions to forward recommendations provided within the Jefferson Wells Hotline Report and related memoranda to the City Council for consideration. This resolution would accept the Jefferson Wells Hotline Report and specify that the four recommendations within the Report be implemented as soon as is practicable.

FISCAL CONSIDERATIONS: To be determined.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On February 25th and March 24th, the Audit Committee unanimously adopted two motions to forward recommendations provided within the Jefferson Wells Hotline Report and related memoranda to the City Council for consideration.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Kawar/Tevlin

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 3:05 p.m.)

MOTION BY FAULCONER TO ADOPT WITH DIRECTION TO REVIEW/DRAFT A WHISTLEBLOWER RETALIATION AND CONFIDENTIALITY ORDINANCE INTO THE MUNICIPAL CODE AND AMEND BY REPLACING "SHALL" WITH "SHOULD" IN SECTIONS 2, 3, AND 4. AMEND SECTION 2 TO SPECIFY E-MAIL NOTIFICATION OF COMPLAINTS INVOLVING SENIOR CITY MANAGEMENT, ALLEGATIONS OF IMPROPER FINANCIAL ACTIVITY AND FRAUD, WASTE AND/OR ABUSE RECEIVED BY THE HOTLINE WILL BE REPORTED TO THE AUDIT COMMITTEE CHAIR, OR OTHER DESIGNATED MEMBER OF THE COMMITTEE, TO ENSURE COMPLIANCE WITH THE BROWN ACT. DIRECT THE CITY AUDITOR/INTERNAL AUDITOR TO PRESENT A HOTLINE ADMINISTRATION PLAN TO THE AUDIT COMMITTEE FOR APPROVAL TO BE PRESENTED TO CITY COUNCIL FOR APPROVAL. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-200: Reclassifying and Changing the Number of Commissioners on the City of San Diego's Commission on Gang Prevention and Intervention.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-76) INTRODUCED WITH DIRECTION, TO BE ADOPTED
ON TUESDAY, MAY 13, 2008

Introduction of an Ordinance amending Chapter 2, Article 6, Division 19, of the San Diego Municipal Code by amending Sections 26.1902 and 26.1903, all related to the Commission on Gang Prevention and Intervention. The purpose of this ordinance is to amend Chapter 2, Article 6, Division 19 to add certain public officeholders to the Commission and to change meeting requirements. The additions are: the San Diego County District Attorney; the San Diego County Chief of Probation; the State of California Chief District Administrator, Department of Corrections, Division of Adult Parole Operations; the San Diego County Sheriff San Diego Unified School District, Superintendent; the Superintendent of the County Office of Education and the Chief of Police for the City of San Diego as a member.

STAFF SUPPORTING INFORMATION:

The Commission on Gang Prevention and Intervention has completed its strategic action goals and action plan for impacting gang activity in the City of San Diego. The Commission has established relationships with various countywide organizations. However, the State has informed all cities that preference will be given in their most recent RFP processes to applicants that incorporate regional approaches to anti-gang activities. Each city grantee must establish a coordinating and advisory council to prioritize the use of the funds with the goal of reducing gang activity in the city and adjacent areas. Membership must include:

- City officials;
- Local law enforcement including the county sheriff, chief probation officer , and District Attorney;
- Local educational agencies, including school districts and the County Office of Education; and
- Community-based organizations;

These funding opportunities are a result of Governor Schwarzenegger's California Gang Reduction, Intervention and Prevention (CalGRIP) Initiative, which resulted in part in the appropriation of \$9,500,000 in the State Budget for this year.

FISCAL CONSIDERATIONS:

Not applicable.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Commission on Gang Prevention and Intervention had two separate discussions about this and felt that it would encourage regional collaboration and encourage broader city-wide discussions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The city will benefit through meeting qualifications regarding state grants and enhance its ability to accomplish the strategic goals outline in the Commission's Strategic Action Plan.

Underwood/Olen

Staff: Lynn Sharpe-Underwood - (619) 236-5936
Mary T. Nuesca - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:10 p.m. - 2:19 p.m.)

MOTION BY YOUNG TO INTRODUCE WITH DIRECTION TO RETURN TO THE PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE WITH RECOMMENDATIONS AND OPTIONS HOW COUNCIL CAN PARTICIPATE IN THE COMMISSION. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-201: Funding Transfer for Managed Competition Consultant Support.

(See Report to the City Council No. 08-066.)

STAFF'S RECOMMENDATION:

Hold the first public hearing:

RETURNED TO STAFF

Amend the Fiscal Year 2008 Appropriations Ordinance (O-19652) to authorize the City Auditor and Comptroller to appropriate and expend \$400,000 in the Business Office (Fund 100, Dept. 210) from the General Fund Unallocated Reserves (Fund 100) to fund managed competition consultant support;

Authorize the Mayor to ratify contract 8020-07-Z with Grant Thornton LLP for managed competition program support with an authorization to expend, not to exceed limit of \$1,550,000, contingent upon the City Auditor and Comptroller first certifying that funds are available;

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

Managed competition is intended to aide the City of San Diego in ensuring that it is delivering quality services to taxpayers, residents, and visitors in the most economical and efficient means possible.

Danegger/Goldstone

Aud. Cert. 2800680.

Staff: Anna Danegger - (619) 236-6107

NOTE: Today's action is the first public hearing. See the docket of Monday, May 5, 2008, for the second public hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:09 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO STAFF. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-202: Impasse Hearing on Proposed Impasse Procedures.

MAYOR SANDERS' RECOMMENDATION:

Take the following actions:

IMPASSE HEARING NOT NECESSARY

Providing for an impasse hearing, if necessary, for Management and the Municipal Employees Association ("MEA"), AFSCME Local 127, and the Deputy City Attorneys Association ("DCAA") currently involved in negotiations regarding a new impasse procedure;

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

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FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:08 p.m.)

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 3:15 p.m.

Elizabeth S. Maland, City Clerk
City of San Diego

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UNAPPROVED
THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, APRIL 29, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:03 a.m. Council President Peters recessed the meeting at 11:20 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:25 a.m. with Council Member Young not present. The meeting was recessed by Council President Peters at 12:00 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:09 p.m. with Council President Pro Tem Madaffer not present. Council President Peters recessed the meeting at 3:29 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 3:35 p.m. with all Council Members present. Council President Peters reconvened the Redevelopment Agency at 3:35 p.m. Council President Peters reconvened the regular meeting at 3:41 p.m. with all Council Members present. Council President Peters reconvened the Redevelopment Agency at 3:42 p.m. Council President Peters reconvened the regular meeting at 3:42 p.m. with all Council Members present. Council President Peters convened the Special Joint Public Hearing with the Redevelopment Agency and Council at 3:42 p.m. Council President Peters reconvened the regular meeting at 3:48 p.m. with all Council Members present. Council President Peters convened the Special Housing Authority at 3:48 p.m. Council President Peters reconvened the regular meeting at 4:01 p.m. Council President Peters recessed the meeting at 4:01 p.m. for the purpose of a break. Council President Peters reconvened the regular meeting at 4:06 p.m. with all Council Members present. Council President Peters reconvened the Redevelopment Agency at 4:06 p.m. Council President Peters reconvened the regular meeting at 5:33 p.m. with Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 6:48 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

(1) Council Member Peters-present

(2) Council Member Faulconer-present

(3) Council Member Atkins-present

(4) Council Member Young-present

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. – 10:41 a.m.)

PUBLIC COMMENT-2:

Bob Kuzewski commented on the Torrey Pines Glider Port.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:44 a.m.)

PUBLIC COMMENT-3:

Phil Hart commented on Council salaries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:46 a.m.)

PUBLIC COMMENT-4:

Ted Patrick commented on a drive-by killing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:46 a.m. - 10:48 a.m.)

PUBLIC COMMENT-5:

Ron Boshun commented on the actions of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. - 10:51 a.m..)

PUBLIC COMMENT-6:

Jarvis Ross commented on consent agenda.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. - 10:55 a.m.)

PUBLIC COMMENT-7:

Joy Sunyata commented on the budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. - 10:58 a.m.)

PUBLIC COMMENT-8:

Izean Rim, Jr., commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:58 a.m. - 11:01 a.m.)

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PUBLIC COMMENT-9:

Jocelin Tarr commented on the Mayor.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. - 11:02 a.m.)

PUBLIC COMMENT-10:

Elinor Rector commented on the City viewpoint.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. - 11:05 a.m.)

PUBLIC COMMENT-11:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. - 11:09 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Atkins invited all to attend the Adams Avenue Roots and Folks Festival Saturday, May 3, and Sunday, May 4, 2008.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:27 a.m. - 10:29 a.m.)

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COUNCIL COMMENT-2:

Council Member Frye informed the public on the guidelines relating to San Diego City Funds and the City Employee Retirement Systems.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:32 a.m.)

COUNCIL COMMENT-3:

Council President Pro Tem Madaffer invited all to attend the Allied Gardens Springfest at the Allied Gardens Recreation Center, Friday, May 2 and Saturday, May 3, 2008.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Sea World of San Diego Penguin Encounter Anniversary Month.

**COUNCILMEMBER FAULCONER'S AND COUNCILMEMBER FRYE'S
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-836) ADOPTED AS RESOLUTION R-303627

Proclaiming May 2008 to be "Sea World of San Diego Penguin Encounter Anniversary Month" in the City of San Diego and commending Sea World for its continued commitment to conservation, education, and entertainment for the residents and visitors of the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:04 a.m. – 10:10 a.m.)

MOTION BY FRYE TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Fryc-yea, Madaffer-yea, Hueso-yea.

ITEM-31: Mingei International Museum Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-829) ADOPTED AS RESOLUTION R-303628

Commending and congratulating the Mingei International Museum for 30 years of success in providing our City with invaluable art and cultural awareness and education;

Proclaiming May 4, 2008, to be "Mingei International Museum Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:19 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-32: Bobo Henderson Day.

COUNCILMEMBER YOUNG’S RECOMMENDATION:

Adopt the following resolution:

(R-2008-894) ADOPTED AS RESOLUTION R-303629

Proclaiming April 29, 2008, to be “Bobo Henderson Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:26 a.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-50: Amending the San Diego Municipal Code Relating to the City of San Diego Election Campaign Control Ordinance.

(See Robert Walters’ 1/4/2008 memorandum; Draft Strike-Out and Draft 1/8/2008 Election Campaign Control Ordinance; and Elizabeth Garrett’s article “Democracy in the Wake of the California Recall”.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/14/2008, Item 150. (Council voted 8-0):

(O-2008-115) ADOPTED AS ORDINANCE O-19744 (New Series)

Amending Chapter 2, Article 7, Division 29 of the San Diego Municipal Code by amending Sections 27.2901, 27.2935, 27.2936, 27.2951, and 27.2953, relating to the City of San Diego Election Campaign Control Ordinance. This ordinance amends an ordinance entitled "San Diego Municipal Elections Campaign Control Ordinance" (ECCO). The ECCO ordinance limits the amount of contributions that an individual may give to a candidate or campaign committee to support or oppose a candidate in a single election, including a recall election. The primary reason for ECCO's contribution limits is to avoid corruption and the appearance of corruption in municipal elections. There is evidence that large contributions may bring about corruption or the appearance of corruption in any phase of a recall election, including the signature gathering phase of such an election. This amendment to ECCO will clarify that contribution limits apply to contributions that are made to support or oppose the recall of an individual holding elective City office, regardless of whether such contributions are made before, during, or after the circulation of a recall petition.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-100: Awarding Contract to Bonita Pipeline, Inc. for Sewer and Water Group 760 Project. (College Area and Mid-City: Eastern Community Areas. Districts 3 and 7.)

(See memorandum from Debra Fischle-Faulk, Patti Boekamp, and Hildred Pepper dated 3/24/2008; and Executive Summary Sheet from Engineering and Capital Projects Department dated 9/19/2007 [including Resolution No. R-2005-1148].)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-849) ADOPTED AS RESOLUTION R-303630

Authorizing the Mayor, or his designee, to award the contract for the Sewer and Water Group 760 (Project) to Bonita Pipeline, Inc. in an amount not to exceed \$774,578.14;

Authorizing the expenditure of an amount not to exceed \$754,665 from Sewer Fund No. 41506, CIP-44-001.0, Annual Allocation Sewer Main Replacement, and an amount not to exceed \$642,510 from Water Fund No. 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, solely for the construction, contingency, and Project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds 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 funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15282(k) as the replacement of existing pipelines less than one mile in length.

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:

Sewer and Water Group 760 is part of a program established by the City of San Diego and the California Department of Public Health mandating the replacement of all cast iron water mains currently in service. This project is located in College Area, Mid-City; Eastern Community Area. This project includes the construction of approximately 2,169 linear feet of replacing existing 6-inch sewer mains, and the replacement of approximately 1,705 linear feet of existing 8-inch water mains.

The advertising of this project was approved by the City Council on January 8, 2008. Bids were opened on February 6, 2008. There were (49) bid packages issued and (15) bid packages received. Bonita Pipeline, Inc. is the lowest bidder, with a bidding amount of \$774,578.14 which is lower than the engineer's estimate.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP):

This project is subject to the SCOPE Program. As requested by Council on January 8, 2008, staff have 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 of this project is \$1,429,762.20 (\$787,252.20 for the sewer portion and \$642,510 for the water side). Funding of \$32,587.20 for the sewer portion of the project was previously authorized by Council (R-300460) for CCTV inspection costs. Additional enterprise funding of \$754,665 is available in CIP-44-001.0, Annual Allocation - Sewer Main Replacements, Fund 41506, Sewer, and \$642,510 for the water portion of the project available in CIP-73-083.0, Annual Allocation - Water Main Replacements, Fund 41500, Water, for this purpose. The project costs for the sewer portion of \$754,665 may be bond reimbursed approximately 80% by current or future debt financing. Water Department revenue is dedicated for this project 80% will be bond financed. No future funding is anticipated.

PREVIOUS COUNCIL COMMITTEE ACTION:

- The advertising of Sewer & Water Group 760 was presented to the Committee on Natural Resources and Culture on September 26, 2007 and approved by a vote of 4 to 0.
- On January 8, 2008, Council R-303311 approved the plans and specifications regarding Sewer and Water Group 760.
- On May 23, 2005, Council R-300460 approved \$32,587.20 for CCTV inspection costs related to Hirsch and Company.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This project was presented to the College Area Community on October 1, 2003. In addition, residents and businesses will be notified at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again, ten (10) days before construction begins by the Contractor through hand distribution of notices.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

- Bonita Pipeline, Inc. will be awarded a contract in the amount of \$774,578.14 as result of this action.
- Residents in this area will encounter minor inconvenience during construction. After completion, residents will experience improved reliability of the sewer & water system.

Boekamp/Jarrell

Aud. Cert. 2800677.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-101: Inviting Bids for Trench Restoration of Various Streets Citywide Project.

(See memorandum from Jim Fisher dated 4/15/2008 and Water Department and Metropolitan Wastewater Department's Executive Summary Sheet dated 3/18/2008.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-761) ADOPTED AS RESOLUTION R-303631

Approving the plans and specifications for the Trench Restoration of Various Streets Citywide (Project) as advertised by the Contract Administrator, on Work Order Nos. Sewer-008315 and Water-535324;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to award and execute a construction contract with the lowest responsible and reliable bidder, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$2,000,000 from Water Fund 41500, for the purpose of funding the contract and related costs for the Project in FY08, provided that the City Auditor first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$1,500,000 from Wastewater Sewer Fund 41506, for the purpose of funding the contract and related costs for this Project in FY08, provided that the City Auditor and Comptroller first furnishes 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;

Authorizing the Mayor, or his designee, to execute a contract extension option for one year if additional funding becomes available, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Declaring that this activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15301. (BID-K084189C)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 3/26/2008, NR&C voted 4 to 0 to approve, and direct staff to respond regarding: 1) how the City handles contracts in cases where the contractor has failed to comply with the contract and its work is inadequate; 2) what type of tracking is used to monitor such inadequate work; and 3) whether previous litigation with contractors is reviewed before awarding bids to them. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

Both the Water and Metropolitan Wastewater Departments have routine needs for trench restoration, as part of operating the water and wastewater systems. The General Services Department has hired 40 limited full-time employees to provide "baseline" trench and permanent street restoration and maintenance work. As there is still the need to perform any trench restoration over and above the "baseline" work performed by General Services Department, as well as to continue addressing the backlog of trench restoration work, there is a need for contractual assistance.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP):

Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPE. Failure to comply with SCOPE will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

FISCAL CONSIDERATIONS:

Funding for this project is available in the Fiscal Year 2008 operating budget, of which \$2,000,000 is from the Water Department Fund 41500, and \$1,500,000 is from the Metropolitan Wastewater Department Sewer Fund 41506.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This is the third year that the City is hiring a paving contractor. Last year, Resolution No. R-302046 approved by the City Council on November 22, 2006, allowed hiring Portillo Construction. Prior to that year, Resolution No. R-300755 approved by the City Council on August 8, 2005 allowed hiring Orion Construction.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

To be determined.

Ruiz/Barrett

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-102: Consultant Agreement with RMC Water & Environment for North County Water Reclamation Plant Live Stream Discharge Feasibility Study Wet Weather Storage Facility Study. (University Community Area. District 1.)

(See Independent Budget Analyst Report No. 08-26; and Metropolitan Wastewater Department's 12/12/2007, Executive Summary Sheet.)

(Continued from the meeting of March 25, 2008, Item 105, at the request of Councilmember Frye, for further review.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-582) RETURNED TO MAYOR AND REFERRED TO
INDEPENDENT BUDGET ANALYST

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with RMC Water & Environment for professional consultant services in connection with the North City Water Reclamation Plant live stream discharge feasibility study, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$467,000 from Fund No. 41509, CIP-45-940.0, Wet Weather Storage Facility, solely and exclusively, to provide funds for the above Agreement;

Declaring that the above activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15262 because this activity is not a project and involves only feasibility or planning studies for possible future action.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 2/27/2008, NR&C voted 4 to 0 to approve with direction that the Independent Budget Analyst produce a report prior to going to Council. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

The objective of this feasibility study is to investigate the possibility of discharging reclaimed water from the City of San Diego's North City Water Reclamation Plant (NCWRP) to live streams during peak wet weather periods and to provide sufficient data to support a National Pollutant Discharge Elimination System (NPDES) permit application to the Regional Water Quality Control Board (RWQCB).

The study will be divided into two phases: Phase I will involve a consultation meeting with the RWQCB and a fair estimate on the possibility of the Board's approval of the NPDES permit and Phase II will involve collecting data and developing analyses necessary to support the permit application.

Reclaimed water from the 30-mgd NCWRP is distributed to irrigation and industrial customers within the northern portion of the City via a reclaimed water distribution system. During periods of wet weather, there is much less demand for reclaimed water and most NCWRP flows are discharged back into the sewer system for transport to the City's Point Loma Wastewater Treatment Plant, where it is retreated prior to discharge to the Pacific Ocean via the Point Loma Ocean Outfall. Additionally, during such periods of wet weather, total system-wide inflows to the Point Loma plant are increased as a result of storm water inflow and infiltration into the Metropolitan Sewer System. *Therefore, MWWD seeks to evaluate the potential for discharge to a stream as a method of offloading its collection, pumping and treatment facilities during extreme wet weather events.*

Evaluation of such discharge potential is a necessary component of MWWD's facility master planning. A NPDES permit allowing such a live stream discharge during the extreme wet weather events will allow the City to re-phase the Wet Weather Storage Project and defer the construction of a large holding tank by at least five years.

To accomplish this task, Purchasing and Contracting Department advertised for professional engineering services in September 2007. Only one proposal was received; the small turn-out was largely attributed to the special expertise required for this comprehensive feasibility study. The presentation and interview for the selection of the consultant was conducted in October 2007. *The selection panel included a representative from the EOCP. RMC Water and Environment was selected per Council Policy 300-07 to complete the feasibility study based on their expertise and prior experiences with both year-round and emergency live stream discharge studies and projects.*

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego
Goals:	15% voluntary (MBE/WBE/DB E/DVBE/OBE)
Subconsultant Participation:	\$84,000 Other Firms (18%)
Other:	Work Force Report Submitted. RMC's local office has fewer than 15 employees and is therefore exempt from the employment category goals.

To support their Equal Opportunity Contracting commitment, as part of their outreach efforts, RMC sent a letter to San Diego Contracting Opportunities Center (SDCOC) inviting interested subconsultants to participate on the RMC team. SDCOC forwarded the letter to 68 contractors. RMC also attended the pre-proposal meeting held by the City in September 2007, to network with potential subcontractors. One of the RMC's subconsultants in this contract, Talavera & Richardson - 3% participation, is certified as a MBE by the County and City of San Francisco, but is not yet certified by the California Unified Certification Program.

FISCAL CONSIDERATIONS:

The total amount of this request is \$467,000. Funds are available from Sewer Fund 41509, CIP-45-940.0, Wet Weather Storage Facility. The project costs may be bond reimbursed approximately 80% by current or future debt financings.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was reviewed and approved by the Natural Resources and Culture Committee on February 27, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

RMC Water and Environment

Ferrier/Barrett

Aud. Cert. 2800496.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:39 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO MAYOR'S OFFICE AND REFERRED TO INDEPENDENT BUDGET ANALYST. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-103: Memorandum of Understanding with San Diego Unified Port District, City of Oceanside, and County of Orange for Joint Regional Harbor Monitoring Program.

(See General Services Department's 2/12/2008 Executive Summary Sheet and Storm Water Division's 2/27/2008 Powerpoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-846) ADOPTED AS RESOLUTION R-303632

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with the San Diego Unified Port District, the City of Oceanside, and the County of Orange for a Joint Regional Harbor Monitoring Program, under terms and conditions set forth in the Memorandum of Understanding;

Authorizing the expenditure of an amount not to exceed \$228,226 from General Fund No. 100, General Services, Storm Water Pollution Prevention Division, Dept. #533, Org. #2200, solely and exclusively, to provide funds for the first year of the above Memorandum of Understanding;

Declaring that 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 2/27/2008, NR&C voted 4 to 0 to approve, with direction that staff report back to the Committee when projects are identified and need funding. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

In July 2003, the San Diego Regional Water Quality Control Board under Section 13225 of the California Water Code, required the San Diego Unified Port District, the City of Oceanside, the County of Orange, and the City of San Diego (Stakeholders) to work jointly to implement the mandated Regional Harbor Monitoring Program (RHMP). The intent of this program was to develop a coordinated monitoring effort of harbors in the San Diego Region to provide water quality status and trends information, as well as assess the surface water's abilities to support designated beneficial uses, as required by the San Diego Regional Water Quality Control Board.

In 2005, the City entered into a Memorandum of Understanding with the Stakeholders (R-301103). The 2005 MOU is in effect until June 30, 2008. This proposed MOU would serve to provide for further studies, monitoring and development of programs for a five-year period, expiring on June 30, 2013.

The general MOU cost sharing formula remains unchanged: 50% of the total RHMP cost shall be allocated for water area in each harbor, 35% of the total RHMP costs shall be allocated for determining the characteristics of the various layers within the waters of each harbor, and the remaining 15% of the total RHMP costs shall be allocated equally amongst all of the Stakeholders for data analysis, data management, and reporting.

Special cost-share formulas may be needed to fund special studies or other efforts required for RHMP compliance. All shared costs and special cost-sharing formulas must be voted on and unanimously approved by all Stakeholders participating in the cost.

In addition, the City will pay overhead expenses associated with the administration costs incurred in the amount of five (5%) of the total RHMP cost.

This agreement is 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:

Annual RHMP costs will vary over the life of the MOU. The MOU provides for the Stakeholders to propose annual budgets which will require each Stakeholder, including the City, to annually appropriate funds to pay its share. Therefore, the City staff will request City Council approvals for each future fiscal year's budget beginning in Spring of 2009 for the FY 2010 budget.

000033

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For FY 2009, the City's share of program cost has been identified by the Stakeholders at \$228,226. Staff is requesting authorization to expend FY 2008 funds in the amount not to exceed \$228,226 for the City's share of FY 2009 program cost. The source is from the General Services Department, Storm Water Pollution Prevention Division Operating Budget (Fund #100, Dept. #533).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

In November 2005, City Council authorized the City Manager to enter into a three-year MOU (R-301103) for \$700,000 that was split between the four (4) Stakeholders as per the cost sharing formula.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include the City of San Diego, the San Diego Unified Port District, the City of Oceanside, and the County of Orange. These stakeholders will be sharing the financial burden of this MOU.

Sierra/Jarrell

Aud. Cert. 2800698.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-104: La Jolla Mesa Vista Undergrounding Utility District. Amends the Capital Improvement Program Fiscal Year 2008 Budget for the La Jolla Mesa Vista Undergrounding Utility Assessment District project. (La Jolla Community Plan Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-881) ADOPTED AS RESOLUTION R-303633

Adoption of a Resolution of the Council of the City of San Diego amending the Capital Improvement Program Fiscal Year 2008 Budget for the La Jolla Mesa Vista Undergrounding Utility Assessment District project in the La Jolla Community Planning Area.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTIONS:**

1. Authorizing a \$690,412 increase in the Fiscal Year 2008 Capital Improvements Program Budget in CIP-37-027.0, La Jolla Mesa Vista Underground Utilities Assessment District, Fund 79736, La Jolla Mesa Vista Underground Utilities Assessment District; and
2. Authorizing the Auditor and Comptroller to appropriate and expend \$690,412 from CIP-37-027.0, La Jolla Mesa Vista Underground Utilities Assessment District, Fund 79736, La Jolla Mesa Vista Underground Utilities Assessment District for the purpose of utility undergrounding and associated activities as described in the Engineers Report for La Jolla Mesa Vista Underground Utility Assessment District No. 4098; and
3. Authorizing the City Auditor and Comptroller, upon advice from the administering department, to return excess funds, if any, to the owners of the assessed parcels within the La Jolla Mesa Vista Underground Utilities Assessment District.

EXECUTIVE SUMMARY:

On July 23, 2007, the City Council passed Resolutions creating the La Jolla Mesa Vista Underground Utility Assessment district No. 4098 for the purposes of undergrounding overhead utilities as indicated in the accompanying Engineers Report.

In addition, the Council passed Resolutions setting a public hearing date of September 10, 2007 to consider creating an Underground Utility District and authorizing the transfer, appropriation and expenditure of \$380,000 from the Underground Surcharge Fund.

The funds will be used in accordance with improvements as described in the Engineers Report for the La Jolla Mesa Vista Underground Utility Assessment District No. 4098, generally described as paying SDG&E, AT&T and Time Warner to underground their facilities, installation of new streetlighting and restoration of the roadway surface.

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 all under the CPUC authority shall be subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-1873, Section 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 \$1,070,412 for work within the public right-of-way, will be financed through the proposed La Jolla Mesa Vista Assessment District No. 4098, per Council Resolution 302864 and a cost sharing component of the City of San Diego of \$380,000 from the Underground Surcharge Fund (30100), per Council Resolutions 300051, 300572 and 302865.

Property owners are solely responsible for all work on private property necessary to convert their property to underground utility systems.

PREVIOUS COUNCIL COMMITTEE ACTION:

1. Allocation of Underground Conversion Projects for Fiscal Year 2005, Resolution 300051, January 11, 2005, Managers Report 05-001, provided for \$280,000 in cost sharing for the LJMV project.
2. Allocation of Underground Conversion Projects for Fiscal Year 2006, Resolution R-300572, June 21, 2005, Managers Report 05-149, provided for \$100,000 in cost sharing for the LJMV project.
3. Approved City Council Resolutions of June 5, 2007 initiating proceedings to form the proposed La Jolla Mesa Vista Undergrounding Utilities Assessment District and setting a public hearing date of July 23, 2007 for formation of the proposed assessment district, and the commencement of the assessment ballot procedure.
4. Creation of the La Jolla Mesa Vista Assessment District No. 4098, July 23, 2007 per Council Resolution R-302864.
5. City Council Resolution R-302865, July 23, 2007, Authorizing the transfer, appropriation and expenditure of \$380,000 from the Underground Surcharge Fund.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

LJMV property owner representatives have worked with Engineering & Capital Projects / Undergrounding Program staff to coordinate with the various utilities to define the project and estimate the costs. At the request of district proponents, Debt Management staff and the City Attorney's Office helped formulate the Petition that was circulated by a primary district proponent.

In addition, the Underground Program Manager and the Debt Management Department sent letters to the LJMV property owners providing information regarding the project and the proceedings being undertaken by the City to consider the formation of the district and the levy of assessments on properties for the purpose of undergrounding the overhead utility lines.

At the point the Petition was prepared and distributed to the community, the Underground Program Manager met with the community at two different locales and times, both at resident's homes, one during the day and one in the evening, to provide information and answer questions regarding the underground process and information regarding the assessment district formation process.

KEY STAKEHOLDERS:

Property owners within the proposed La Jolla Mesa Vista Underground Utility Assessment District. Business entities involved in the formation of the proposed assessment district include Bureau Veritas North America, Inc. (Assessment Engineer) and Best, Best and Krieger LLP (Outside Legal Counsel).

Jarrell/Boekamp

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea

ITEM-105: Settlement of Litigation Entitled Beacon Electric Supply v. Saturn Electric, Inc. et al.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-916) ADOPTED AS RESOLUTION R-303644

A Resolution approved by the City Council in Closed Session on Tuesday, April 15, 2008, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Young-yea; Maienschein-yea; Frye-yea; Council President Pro Tem Madaffer-not present; Hueso-yea.

Authorizing the Mayor, or his designee, to release the amount of \$1,618,143.25 in funds earned by Orion Construction but retained by the City, and to pay an additional amount of \$900,000 in the settlement of each and every claim of Orion Construction against the City, its agents and employees, arising from the Rehabilitation of Pump Stations 77A and 77B Project as set forth in San Diego Superior Court Case No. GIC 849095, Beacon Electric Supply v. Saturn Electric, Inc., et al;

Authorizing the City Auditor and Comptroller to appropriate and issue one check in the amount of \$900,000 payable to Orion Construction in full settlement of all claims arising from the Rehabilitation of Pump Stations 77A and 77B Project;

Declaring that said funds are to be payable from Sewer Fund No. 41506.

SUPPORTING INFORMATION:

This litigation arises from delays associated with the project known as the Rehabilitation of Pump Stations 77A & 77B. Sewer Pump Stations 77A and 77B are the sewer pump stations that convey wastewater from the Rancho Bernardo area of San Diego to the City of Escondido's treatment facility.

Various issues arose during construction that led to significant delays in the completion of the project. The project was essentially completed in July 2006 and the pumps have been operating for nearly two years. After preparation and analysis of an as-built critical path schedule for the project, the City determined that Orion was entitled to an extension of contract time of 421 days due to events beyond its control.

The City also determined that Orion and/or its subcontractors were responsible for 241 days of delay, for which liquidated damages have been assessed in the amount of \$361,500.

This settlement results in a net payment to Orion of \$2,518,143.25, which reflects additional costs incurred by Orion less the liquidated damages assessed by the City. Payment will be made to Orion by releasing the contract balance earned by Orion but being held by the City in the amount of \$1,618,143.25, plus an additional payment of \$900,000 above the current contract price. Both parties agreed to sign a release of all claims and Orion agreed it would defend and indemnify the City for any claims by its subcontractors.

FISCAL CONSIDERATIONS:

\$900,000 is available in Sewer Fund No. 41506.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This settlement and payment was considered by the City Council in Closed Session on April 15, 2008. On motion of District 8 and second by District 1, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 4, 5, 6, and 8; Nays, none; Not Present, District 7; approved the settlement of all claims of Orion Construction Company against the City in Beacon Electric Supply v. Saturn Electric, Inc., et al, San Diego Superior Court Case No. GIC 849095, for release of the contract balance of \$1,618,143.25 to Orion and the payment of an additional \$900,000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Kalinowski

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:38 a.m. – 12:03a.m.;
2:09 p.m. – 2:26 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-nay. Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-106: Appointment to the San Diego Water Authority Board of Directors.

(See memorandum from Mayor Sanders dated 4/3/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-885) ADOPTED AS RESOLUTION R-303634

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the San Diego County Water Authority Board of Directors, for a term ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Elsa Saxod (Mission Hills, District 2) (Replacing Joseph Craver, who has resigned)	February 7, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-107: Reappointments to the Board of Building Appeals and Advisors.

(See memorandum from Mayor Sanders dated 3/28/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-883) ADOPTED AS RESOLUTION R-303635

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the Board of Building Appeals and Advisors, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Kelly Eisenstein (Ocean Beach, District 2) (Reappointment)	Consulting Engineer	March 1, 2010
Frank Landry (Talmadge, District 3) (Reappointment)	Architect	March 1, 2010
Kenneth Oh (Poway) (Reappointment)	Fire Protection Engineer	March 1, 2010

Ali Sadre
(La Jolla, District 1)
(Reappointment)

Structural Engineer

March 1, 2010

Stating that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Kenneth Oh is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Board; therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-108: Reappointments to the Park and Recreation Board.

(See memorandum from Mayor Sanders dated 3/24/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-884) ADOPTED AS RESOLUTION R-303636

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the Park and Recreation Board, for terms ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Bruce Brown (Mira Mesa, District 5) (Reappointment)	March 1, 2010

Rick Bussell (Linda Vista, District 6) (Reappointment)	March 1, 2010
Norman Greene (College Area, District 7) (Reappointment)	March 1, 2010
Wilbur Smith (Clairemont, District 6) (Reappointment)	March 1, 2010
Michael Stepner (Mission Hills, District 2) (Reappointment)	March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-109: Educational Enrichment Systems Jeff and Deni Jacobs Child Development Center Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-904) ADOPTED AS RESOLUTION R-303637

Proclaiming April 29, 2008, to be "Educational Enrichment Systems Jeff and Deni Jacobs Child Development Center Day" and commending the many individuals who help make this organization and center a dedicated and positive service for our communities.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-110: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-699) ADOPTED AS RESOLUTION R-303638

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-111: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-812) ADOPTED AS RESOLUTION R-303639

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L – State of Emergency Due to Severe Shortage of Affordable Housing

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-112: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-752) ADOPTED AS RESOLUTON R-303640

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-113: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-861) ADOPTED AS RESOLUTION R-303641

Declaring a continued state of emergency to persist relative to the landslide on Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in Resolution No. R-303041 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the Landslide on Mount Soledad

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-330: Kroll Remediation Status Report Number 6 and Project Charter – Assessment and Documentation of Policies and Procedures Demonstrating Internal Control Over Financial Reporting.

(See Kroll Remediation PowerPoint dated 3/10/2008; Jay Goldstone's 3/10/2008 memorandum; Mayor Sanders' 1/28/2008 memorandum; Assessment and Documentation of Policies and Procedures-Project Charter (undated); RTCIP Projects chart (undated); 2007 Regional Transportation Plan-Technical Appendices; and memorandum from Mayor Sanders dated 3/19/2008 [not available at Committee].)

(Continued from the meeting of April 1, 2008, Item 333, at the request of Council, due to lack of time.)

TODAY'S ACTION IS:

Take the following actions:

HEARING HELD; REPORT RECEIVED

Accept the Kroll Remediation Status Report Number 6;

File the Project Charter;

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

AUDIT COMMITTEE'S RECOMMENDATION:

On 3/10/2008, Audit voted 2 to 0, to forward this item to the full City Council.
(Councilmembers Faulconer and Young voted yea. Councilmember Atkins not present.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:27 p.m. – 3:29 p.m.)

ITEM-331: Amendments to the San Diego Municipal Code Eliminating the Surplus Undistributed Earnings (“Waterfall”) Relating to the City Employees’ Retirement System. (Citywide.)

(See memoranda from Council President Peters dated 4/8/2008, 11/8/2007, 8/27/2007, and 6/19/2007.)

COUNCIL PRESIDENT PETERS’ RECOMMENDATION:

Take **one** of the following actions:

Version A: SDCERS Draft Ordinance CONTINUED TO TUESDAY,
MAY 27, 2008

Amending the San Diego Municipal Code eliminating the Surplus Undistributed Earnings (“Waterfall”) as codified in San Diego Municipal Code Section 24.1502 and as referred to in Section 24.1501, 24.1503, 24.1504, and 24.1507, all relating to the City Employees’ Retirement System;

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

OR

Version B: City Attorney Ordinance CONTINUED TO TUESDAY,
MAY 27, 2008

Amending the San Diego Municipal Code eliminating the Surplus Undistributed Earnings (“Waterfall”) as codified in San Diego Municipal Code Section 24.1502 and as referred to in Section 24.1501, 24.1503, 24.1504, and 24.1507, all relating to the City Employees’ Retirement System.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:26 p.m. – 2:27 p.m.)

MOTION BY YOUNG TO CONTINUE TO TUESDAY, MAY 27, 2008, BY THE CITY ATTORNEY'S OFFICE FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: Marketing Partnership Agreement Between the City of San Diego and Cardiac Science Corporation to Fund the San Diego Project Heart Beat.

(See Report to the City Council No. 08-007.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-562) ADOPTED AS RESOLUTION R-303642

Authorizing the Mayor to enter into a Marketing Partnership Agreement with Cardiac Science to fund the San Diego Project Heart Beat.

STAFF SUPPORTING INFORMATION:

The purpose of this Executive Summary is to provide an overview of the requested action and background regarding the Marketing Partnership Agreement (Agreement) which has been negotiated between the City of San Diego (City) and Cardiac Science. Under the Agreement, Cardiac Science will pay \$185,000 per year to sustain San Diego's Public Access Defibrillation (PAD) Program, San Diego Project Heart Beat (SDPHB). The total value of the Agreement is \$925,000 over five years. In exchange, Cardiac Science will receive marketing rights and benefits which are fully explained in the Report to City Council and Marketing Partnership Agreement. The proposed Agreement was developed through the standard procurement process in conjunction with a Request for Proposal for Automatic External Defibrillators, Replacement Parts, Accessories and Upgrades.

FISCAL CONSIDERATIONS:

San Diego Medical Services Enterprise, LLC (SDMSE) through the AED Operating Memorandum with the City, will receive \$185,000 per year from Cardiac Science. The total potential value of the Agreement over 5 years is \$925,000. A copy of the AED Operating Memorandum is included in this Report as Attachment C. See funding breakdown below:

- \$110,000 marketing rights fee to be paid by Cardiac Science to SDMSE for each year of the Agreement. The term of the Marketing Partnership Agreement is two-years with option to renew three additional one-year terms.
- A \$150 sales stipend per AED sold and a \$25 sales stipend per wall mount sold to be paid by Cardiac Science to the City on all sales that occur within certain agreed upon zip codes in San Diego County. A minimum of \$50,000 to be paid by Cardiac Science to SDMSE for each year of the Agreement regardless of the volume of sales of AEDs and wall mounts.
- A \$25,000 annual promotional budget to be paid by Cardiac Science to SDMSE for each year of the Agreement.

SDMSE will pay The Pathfinder Group \$11,000 per year commission for the first 3 years for development. In the first and second year of the Agreement, a transaction fee of \$11,000 annually will be paid to The Pathfinder Group, the City's consultant, as per the Marketing Consultant Agreement. An additional \$11,000 will be paid to The Pathfinder Group in the third year if the Marketing Partnership Agreement is extended. No commission fees apply to the fourth or fifth year of the Marketing Partnership Agreement (Document No. C-13038).

In the event SDMSE does not win the award to provide emergency medical services to the City in future years, the City will be responsible for all aspects of the San Diego Project Heart Beat. The City's Fire-Rescue Department (Fire Department) will be responsible for managing and operating San Diego Project Heart Beat. The revenue negotiated in the Marketing Partnership Agreement between the City and Cardiac Science will be directed to the Fire Department to be used to manage and operate San Diego Project Heart Beat.

Also in the event SDMSE does not win the award to provide emergency medical services to the City in future years, the City will be responsible for paying a transaction fee of \$11,000 annually to The Pathfinder Group for each year of the initial two year term, and \$11,000 in the third year, if the option on the third year is exercised. The City is responsible for paying the fee because the consultant contract is between the City and The Pathfinder Group. The fee is based strictly on the money that comes in through the Marketing Partnership Agreement.

The consultant fee will be deposited into the Corporate Partnership Program budget while the remaining revenue is deposited in the department where the Executive Team feels San Diego Project Heart Beat is best placed. That decision will be determined at a later date.

The net additional revenues will range from \$348,000 to \$892,000 depending on the renewal of the Agreement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Cardiac Science, San Diego Medical Services Enterprise, LLC, and The Pathfinder Group.

Wolff/Goldstone

Staff: Jenny Wolff - (619) 236-7002
William J. Gersten - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:31 a.m. – 11:36 a.m.)

MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: Acceptance of Repayment of a Portion of the HUD Section 108 Loan #B-96-M-06-0542-A on Behalf of Council District Four. (Southeastern San Diego Community Area. District 4.)

(See Southeastern Economic Development Corporation Report SEDC-08-001.)

**SOUTHEASTERN ECONOMIC DEVELOPMENT CORPORATION'S
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-748) ADOPTED AS RESOLUTION R-303645

Authorizing the acceptance of \$450,000 from the Agency (Central Imperial Redevelopment Project Area);

Appropriating these funds into CDBG Fund #18514 for the FY 09 payment of a portion of the HUD Section 108 Loan #B-96-MC-06-0542-A on behalf of Council District Four;

Authorizing the appropriation and expenditure of funds, contingent upon certification of funds availability of the FY 2007 tax allocation bonds by the City Auditor and Comptroller for the aforementioned said FY 09 payment of a portion of the HUD Section 108 Loan #B-96-MC-06-0452-A on behalf of Council District Four (4);

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

SUPPORTING INFORMATION:

On May 6, 1996, Resolution Number R-287278 was adopted by the San Diego City Council authorizing the submission of an application for a Section 108 loan guarantee (B-96-MC-06-0542-A) to the United States Department of Housing and Urban Development (HUD) for the development of Potter Tract, Chollas Creek and Mountain View Community Center. The aforementioned resolution also authorized repayment of the Section 108 Loan to be repaid from a portion of the Fourth Council District Community Development Block Grant annual allocation.

In addition, the application to HUD and the Cooperation and Pledge Agreement between the Redevelopment Agency and the City of San Diego authorized the use of SEDC Tax Increment Revenues and/or land sale for the repayment of the Section 108 loan payments.

On May 15, 2007, the Agency approved FY08 Program budget for SEDC which included the proceeds anticipated from the taxable FY 07 Tax Allocation Bond proceeds in the Central Imperial Redevelopment Project Area.

On June 12, 2007, and reaffirmed on July 10, 2007, the City authorized issuance of the FY 2007 tax allocation bonds which included the budgeted bond proceeds amount of \$450,000 (net of the cost of issuance) proposed for the FY09 payment of a portion of the HUD Section 108 Loan #B-96-MC-06-0542-A on behalf of the Council District Four.

Authorizing the acceptance of the \$450,000 FY 09 payment from the Agency for the portion of the HUD Section 108 Loan on behalf of the Council District Four will assist in the repayment of the Agency loan to the City.

SEDC may budget additional annual payments on the Agency loan from the City contingent on the availability of funds from future bond issuances and tax increment revenues generated by the Central Imperial Redevelopment Project Area.

FISCAL CONSIDERATIONS:

The \$450,000 repayment is available from the FY 2007 taxable bond proceeds of Central Imperial Redevelopment Project Area.

PREVIOUS COUNCIL ACTIONS:

Approval of the FY 2007 tax allocation bonds on June 12, 2007 and reaffirmed on July 10, 2007 by the City Council which included the \$450,000 for the repayment of a portion of the Section 108 Loan.

KEY STAKEHOLDERS:

The Fourth Council District.

Dayacap/Smith

Aud. Cert. 2800587.

NOTE: See the Redevelopment Agency Agenda of April 29, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:42 p.m. – 3:42 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-334: Accepting Loan Repayment from Redevelopment Agency, North Park Redevelopment Project Area and Authorizing a Loan to Lyric Opera. (Greater North Park Community Area. District 3.)

(See Redevelopment Agency Report No. RA-08-10/RTC-08-043.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-913) ADOPTED AS RESOLUTION R-303646

Accepting a Sales Tax loan repayment from the Redevelopment Agency of the City of San Diego in the amount of \$352,500 from the North Park Redevelopment Project Area to the City Sales Tax Fund No. 10227;

Authorizing the transfer of \$352,500 from City Sales Tax Fund No. 10227 to Lyric Opera San Diego as a forgivable loan to provide working capital to sustain operations upon the execution of a promissory note in favor of the City of San Diego;

Directing the City Auditor and Comptroller to record the aforementioned transfer from the City of San Diego as an interest bearing 10-year loan to Lyric Opera San Diego with any outstanding principal and/or accrued interest to be due at maturity;

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

STAFF SUPPORTING INFORMATION:

Lyric Opera San Diego (Lyric Opera), a 501(c)3 not for profit organization, is the owner and manager of the Birch North Park Theatre, which underwent extensive rehabilitation with assistance from the Redevelopment Agency (Agency). The Agency also owns the parking structure adjacent to the theatre which was constructed to provide parking for theatre patrons.

In 2004, Lyric Opera vacated its former location in anticipation of a February 2005 theatre opening.

However, construction of the parking structure was not completed in time for the planned opening of the theatre. Without sufficient parking, Lyric Opera's theatre opening was delayed a season, which created a budget shortfall with no revenue generated to cover fixed operating costs. Lyric Opera has been unable to eliminate the shortfall and is threatened with insolvency.

Due to the considerable resources the Agency and the City provided to the preservation and revitalization of the North Park Theatre and the construction of the parking structure, and the desire to assist in the success of the resident operator of the theatre, staff proposes to provide a loan to Lyric Opera in an amount not to exceed \$352,500. The loan would be in the form of a ten year promissory note at 3% interest with all principal and interest payments accrued until maturity (Attachment 1). A condition of the loan requires Lyric Opera to offer events or services free, or at a discounted rate, to students that attend public school within the Greater North Park Community, low-income children residing in the Greater North Park Community, and/or not for profit organizations. Such events or services include theatre productions, Summer Academies, use of the theatre space, or other similar events and services. Quarterly reports must be submitted to the City to verify that these conditions have been satisfied. If, at the end of the ten year term, Lyric Opera has satisfied all conditions, all or a portion of the proposed loan may be forgiven.

FISCAL CONSIDERATIONS:

The proposed loan to Lyric Opera will be provided by the repayment of existing debt to the City from the North Park Redevelopment Project Area. The North Park Redevelopment Project Area will repay \$352,500 of debt owed to Fund 10227 (Sales Tax Revenue). This fund transfer will have no impact on the Project Area's work plan because tax increment revenue is expected to exceed the budget forecast. Based on the February 2008 assessed valuation from the County of San Diego, the revised projection for Fiscal Year 2008 tax increment revenue for the North Park Redevelopment Project Area is \$7.16 million, or \$1.10 million higher than the FY 2008 budget projection of \$6.06 million. After required deductions for the Low and Moderate Income Housing Fund (\$220,000) and taxing agencies reserves (\$220,000), a net surplus of \$660,000 is available.

PREVIOUS AGENCY, COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The North Park Project Area Committee, at their regularly scheduled meeting of January 8, 2008, voted to recommend that the Redevelopment Agency direct sufficient Agency funds for payment of the costs incurred by Lyric Opera due to the delayed completion of the parking structure.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

- No projected impacts.
- Stakeholders: Lyric Opera San Diego, Leon Natker, General Director, and Sherwood Montgomery, Artistic Director.

Weinrick/Anderson

Aud. Cert. 2800706.

Staff: Michael Lengyel - (619) 236-6269
Huston Carlyle – Chief Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of April 29, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:35 p.m. – 3:35 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-335: Ten Fifty B Affordable Housing Project – Amended and Restated Owner Participation Agreement and Amended and Restated Ground Lease with Affirmed Housing Group. (East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project. District 2.)

(See Centre City Development Corporation Report No. CCDC-08-09/
CCDC-08-05.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-872) ADOPTED AS RESOLUTION R-303647

Recognizing that it has received and heard all oral and written objections to the proposed Amended and Restated Ground Lease and to other matters pertaining to this transaction, and that all such oral and written objections are hereby overruled;

Approving the Amended and Restated Ground Lease, which establishes the terms and conditions for the lease of the real property to be owned by the Agency;

Acknowledging that the Executive Director of the agency, or his designee, is hereby authorized to execute the Amended and Restated Ground Lease on behalf of the City. A copy of the Agreement, when executed, shall be placed on file in the Office of the Secretary of the Agency;

Acknowledging that the Executive Director of the Agency, or his designee, is hereby authorized, on behalf of the City, to sign all documents necessary and appropriate to carry out and implement the Amended and Restated Ground Lease and to administer the Agency's obligations, responsibilities and duties to be performed under said Amended and Restated Ground Lease.

Subitem-B: (R-2008-911) ADOPTED AS RESOLUTION R-303648

Declaring that the Council has previously reviewed and considered information contained in the EIR for the San Diego Downtown Community Plan, Centre City Planned District Ordinance and Tenth Amendment to the Plan, as well as the Final Secondary Study relating to the development of the

Ten Fifty B Project and hereby finds that there are no changes to the Project that would have any additional or significant effect on the environment, except those previously identified and considered in the EIR and accounted for in the Mitigation Monitoring and Reporting Program for the Project;

Declaring that a Notice of Determination shall be filed with the Clerk of the Board of Supervisors for the County of San Diego regarding the development contemplated by the Amended and Restated Owner Participation Agreement and related activities.

SUPPORTING INFORMATION:

The original OPA and Ground Lease with Affirmed Housing Group were approved by the Agency and Council on October 9, 2007. Subsequent to approval, the Developer's tax credit counsel deemed the approved OPA and Ground Lease terms inconsistent with syndicators' standard underwriting criteria for tax credit financing in circumstances when a ground lease is a component of the transaction. As a consequence, the Developer has requested material changes to the OPA and ground lease terms; however, the proposed changes will not impact the Agency's total subsidy or subsidy per unit. The OPA provides for construction of a 23-story, 229-unit affordable housing project consisting of 68 studio, 57 one-bedroom, 34 two-bedroom, and 70 three-bedroom units on the 21,780 square-foot site located on the north side of B Street between 10th and 11th Avenues in downtown's East Village Redevelopment District. The proposed Project will add to the range of downtown housing opportunities, and expand the much-needed supply of affordable-rental housing, especially for families with children.

FISCAL CONSIDERATIONS:

Funds are available in the amount of \$33,975,000 in the Redevelopment Agency FY 2008 Low and Moderate Income Housing Fund.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On March 26, 2008, the Corporation Board of Directors approved the staff recommendation by a vote of 6-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECT IMPACTS:

Developer/General Partner: Affirmed Housing Group (privately owned)
Tax Credit Investor/Limited Partner: Boston Capital Finance, LLC (privately owned)
Property Manager: Solari Enterprises (privately owned)
Architect: Martinez & Cutri Architects (privately owned)

Graham/Graham

NOTE: This is a Special Joint Public Hearing with the Redevelopment Agency and Housing Authority. See the Redevelopment Agency and Housing Authority Agenda of April 29, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:48 p.m. – 3:48 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-336: San Diego Regional Revolving Loan Fund. (Peninsula (NTC), North Park, and San Ysidro Community Areas. Districts 2, 3, and 8.)

(See Redevelopment Agency Report No. RA-08-12/RTC-08-053.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-874) ADOPTED AS RESOLUTION R-303649

Accepting a General Fund Loan Repayment from the North Park Redevelopment Project Area to the City of San Diego in the amount of \$403,308;

Accepting a General Fund Loan Repayment from the San Ysidro Redevelopment Project Area to the City of San Diego in the amount of \$60,000;

Accepting a General Fund Loan Repayment from the Naval Training Center (NTC) Redevelopment Project Area to the City of San Diego in the amount of \$375,000;

Applying the aforementioned General Fund loan repayments totaling \$838,308 to the City's San Diego Regional Revolving Loan Fund (SDRRLF) and expend monies thereof for the established purposes of the fund;

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

STAFF SUPPORTING INFORMATION:

In 2002, the City established the SDRRLF for the purpose of providing loans for small business and development projects. (Reference City Manager's Report # 02-152 and City Council Resolution R-296757). The fund was established by a \$1.2 million grant from the Department of Commerce, Economic Development Administration (EDA). As part of the terms of the EDA grant, the City is obliged to provide matching funds. The City Council satisfied this requirement by authorizing the City Manager to accept loan repayments from the Redevelopment Agency to the City. (Refer to Council Resolution R-296757, Adopted July 8, 2002.) The Redevelopment Agency allocated funds for this purpose in the Fiscal Year 2003 budget. Today's proposed action calls for specific loan repayments of the Redevelopment Agency and the utilization of these repayments by the City for specific SDRRLF projects.

FISCAL CONSIDERATIONS:

The City matches required for these projects are being funded via debt repayments from the Redevelopment Agency to the City's General Fund. Upon receipt of the Agency repayments the City in turn will transfer the monies to the SDRRLF to satisfy the EDA funding requirement and facilitate the activation of the project loans.

The Agency and City benefit from this action in that monies are provided to fund the small business loans. This proposed action satisfies EDA requirements.

PREVIOUS AGENCY, COUNCIL and/or COMMITTEE ACTION:

In 2002, the City established the SDRRLF for the purpose of providing loans for small business and development projects. (Reference City Manager's Report # 02-152 and City Council Resolution R-296757). The same action authorized the City to accept debt repayments from the Redevelopment Agency as a source of matching funds.

The respective projects that will receive funding as a result of this action were approved by the San Diego Regional Revolving Loan Fund Advisory Board on August 15, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Loan program marketing has been conducted by City Planning & Community Investment (CPCI) at workshops and community meetings, and with community groups. Program Fact Sheets are kept current and modified via template as requested for specific groups and/or project area.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The community and Redevelopment Agency will benefit from this action as the projects that will receive funding are aligned with the goals of redevelopment. The City will benefit from the availability of these leveraged funds for the intended projects.

Kessler/Weinrick/Anderson

Staff: Scott Kessler - (619) 236-6405
Brent C. Will – Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of April 29, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:41 p.m. – 3:42 p.m.)

MOTION BY HUESO TO ADOPT. Second by Atkins. Passed by the following vote:
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Hueso-yea.

ITEM-337: *Authorizing Transfer and Appropriation of \$4,500,000 to the Public Liability Fund from Unallocated Reserves.*

STAFF'S RECOMMENDATION:

Hold the first public hearing of the ordinance:

(O-2008-139) HEARING HELD

An Ordinance amending Ordinance No. O-19652 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2008 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year" by authorizing the appropriation and transfer of \$4,500,000 from the General Fund Unallocated Reserve to the Public Liability Fund for the purposes of paying costs resulting from damage claims and lawsuits against the City;

Amending the Appropriation Ordinance to appropriate \$4,500,000 from the General Fund Unallocated Reserve to Fund 100, Dept. 601, Citywide Program Expenditures (Org. 2900);

Authorizing the City Auditor and Comptroller to transfer \$4,500,000 from Fund 100, Dept. 601 Citywide Program Expenditures (Org. 2900) to the Public Liability Fund 81140.

STAFF SUPPORTING INFORMATION:

The purpose of the Public Liability Fund is the payment of costs resulting from damage claims and lawsuits against the City. At the beginning of Fiscal Year 2008 there was \$20.3 million available in the Fund. However, this funding has been exhausted and there are insufficient funds to meet future obligations through the end of this fiscal year. For the last several years, the City has been involved in significant and complex litigation that has resulted in unanticipated cost increases to the Public Liability Fund. It is projected that an additional \$4.5 million will be required by June 30, 2008 for various claim related expenses incurred this fiscal year.

FISCAL CONSIDERATIONS:

\$4,500,000 for this action is available in the Unallocated Reserves for transfer to Public Liability Fund 81140 via Fund 100, Dept. 601 Citywide Program Expenditures.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Not applicable.

Bych/Lewis

Aud. Cert. 2800726.

Staff: Greg Bych - (619) 236-6651
Brant Will - Deputy City Attorney

NOTE: Today's action is the first public hearing. See the docket of Monday, May 5, 2008, for the second public hearing and the introduction and adoption of the Ordinance.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 6:43 p.m. – 6:48 p.m.)

ITEM-338: Public Hearing on the proposed expansion of the Adams Avenue Business Improvement District to permit testimony in support of or opposition to the expansion of the Adams Avenue Business Improvement District and the levying of assessment on such business in the proposed expanded area of the Adams Avenue BID. Amending the Adams Avenue Business Improvement District ordinance to expand the District and include the Kensington-Talmadge business core. (Normal Heights, Mid-City, Kensington and Talmadge Community Plan Areas. District 3.)

(First Public Hearing held on March 4, 2008, Item 108; Public Meeting was held on April 1, 2008, Item S500.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-138) INTRODUCED TO BE ADOPTED
TUESDAY, MAY 13, 2008

Introduction of an Ordinance of the Council of the City of San Diego amending Ordinance No. O-18087 to expand the Adams Avenue Business Improvement District to include the Kensington-Talmadge business core.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

At the first Council date (Council meeting of March 4, 2008):

1. Declare intent to expand the Adams Avenue Business Improvement District (and to levy assessments), set April 1, 2008 as the noticed public meeting date, and set April 29, 2008 as the noticed public hearing date for considering protests.

At the second Council date (Council meeting of April 1, 2008)

2. Hold public meeting and permit testimony in support of or opposition to the expansion of the Adams Avenue Business Improvement District and the levying of assessments on such business in the proposed expanded area.

At the third Council date (Council meeting of April 29, 2008)

3. Hold the public hearing and permit testimony in support of or opposition to the expansion of the Adams Avenue Business Improvement District and the levying of assessments on such business in the proposed expanded area.
4. Introduce the Ordinance expanding the Adams Avenue Business Improvement District.

EXECUTIVE SUMMARY:

An effort to expand the Adams Avenue Business Improvement District (AABID) to include the Kensington-Talmadge commercial area has been ongoing for a number of months under the auspices of the Kensington-Talmadge Business Association. The purpose of the expansion is to build on the synergy between the commercial areas along Adams Avenue and to leverage the available resources to better benefit the businesses in the area. This expansion also has the support of the Adams Avenue Business Association, which manages the AABID, an area encompassing Adams Avenue from the 2400 block to I-15 and the adjoining side streets for one block north and south of Adams Avenue. The expansion would add the area along Adams

Avenue between I-15 and 4248 Adams Avenue, and the adjoining side streets in the 4600 and 4700 blocks of Biona Drive, Edgeware Road, Kensington Drive, Marlborough Drive, Terrace Drive, Vista Street, and 42nd Street, and the 4100 block of Park Place.

A Business Improvement District (BID), as authorized by California law, is a government-designated assessment area formed with the support of businesses to improve their business conditions. Assessment means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities, which will benefit the businesses located and operating within a parking and business improvement area. All BID assessments are returned to the district for improvement programs operated by the business membership. BID programs can include promotional advertising and marketing programs, special events, technical assistance programs and others as designated by the needs of the district's businesses. San Diego currently has 19 designated districts located from La Jolla to San Ysidro, and Ocean Beach to the College Area.

The City Council has adopted Council Policy 900-07 on Business Improvement Districts to clarify the process by which BIDs may be established or expanded. The policy states that a proposed expansion of BID boundaries should be supported by 20% of eligible businesses within the expansion area as demonstrated by a petition. In January 2007, City staff received a number of petitions in support of expanding the AABID and verified that the 20% threshold had been met. In accordance with Council Policy 900-07, City staff then conducted a mailed ballot procedure to determine the level of support among the affected businesses in the expansion area.

Council Policy 900-07 also provides that City Council may proceed with a public hearing process to amend the BID ordinance and increase the assessment where: "an assessed value and numerical majority of those responding support the increase in the levels of assessment". A majority of the responding businesses, when counted numerically (74.5%) and when weighed by the amount of the proposed assessment (80.4%), supported the expansion of the AABID and the levying of an annual assessment.

Given the support of the affected businesses, staff is bringing the expansion to City Council for approval as required by the Parking and Business Improvement Area Law of 1989. Since this expansion of the AABID would allow the City to levy an annual assessment on the newly included businesses, a multi-step hearing and noticing process is required by the 1989 Law and the Ralph M. Brown Act and is outlined above.

FISCAL CONSIDERATIONS:

Approximately \$6,500 of additional annual assessments will be collected from the businesses of the expanded area. It is anticipated that assessments would be levied and collected starting in FY2009 once approved by Council as part of the BID Annual Appropriation Process.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The AABID was established by Ordinance No. O-16479, adopted on July 29, 1985. It was amended by Ordinance No. O-18087 on July 11, 1994, to create a third zone and increase the assessments in certain central areas of the AABID to support landscape maintenance activities.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Kensington Talmadge Business Association held community meetings on the proposed expansion and then coordinated a petition drive to have the commercial core included in the Adams Avenue BID. All businesses proposed to be assessed also received a ballot and information concerning the proposed expansion.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Businesses within the BID and the Kensington Talmadge area, along with their respective business organizations, are the key stakeholders of this action. The Kensington Talmadge businesses would be impacted by the levying of the annual assessment in the amount of \$40 to \$70 per year depending on the location of the business and the business category.

Kessler/Anderson/MDB

Staff: Meredith Dibden Brown – (619) 236-6485
Kimberly K. Harris – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:33 p.m. – 6:43 p.m.)

Testimony in favor by Richard Hanford, John Garrison, Jim Schneider, Larry Teves, Michael Rammelsberg, David McPheeters, and Sherry Hopwood.

MOTION BY ATKINS TO INTRODUCE. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-not present, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 6:48 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:48 p.m. – 6:48 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

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UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MAY 5, 2008
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:02 p.m. The meeting was adjourned by Council President Peters at 3:45 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-not present
 - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

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ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-not present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Joe Maloney of Horizon Christian Fellowship.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION: MINUTES

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COUNCIL COMMENT:

COUNCIL COMMENT 1:

Council Member Atkins introduced Antonio Figueroa from Hoover High who is shadowing Council; commented on follow-up items from the Budget memo she sent out; and thanked Council Member Faulconer for joining her in Balboa Park this morning.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:05 p.m. - 2:09 p.m.)

COUNCIL COMMENT 2:

Council Member Faulconer thanked all who were involved in the opening of the Children's Museum on Sunday and explained the reason for leaving early today.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:09 p.m. - 2:10 p.m.)

COUNCIL COMMENT 3:

Council Member Young commented on the Children's Book Festival over the weekend.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:10 p.m. - 2:11 p.m.)

COUNCIL COMMENT 4:

Council Member Hueso explained the true meaning of Cinco de Mayo.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:11 p.m. - 2:13 p.m.)

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

**CS-1 *Rickie G. Reynolds v. City of San Diego*
San Diego Superior Court Case No. 37-2008-00082006-CU-WT-CTL**

REFERRED TO CLOSED SESSION OF TUESDAY, MAY 6, 2008

DCA Assigned: M. Severson

The *Rickie G. Reynolds v. City of San Diego, et al.*, matter is a new action filed by a former City of San Diego Assistant Chief Operating Officer for damages, alleging that his termination was in retaliation for reporting his concerns about the actions of a Mayor's Office employee as relates to the City Attorney's Office. In Closed Session, the City Attorney will recommend that the City of San Diego retain outside counsel to handle the matter.

Closed Session Comment 1:

Jarvis Ross commented on the actions of the Mayor's office.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:07 p.m. - 3:09 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-2 Agency Negotiator: Steven Berliner, Richard Kreisler, Lisa Briggs, Scott Chadwick, Tanya Tomlinson, Thom Harpole, Abby Jarl, Hadi Dehghani, Val VanDeweghe, Rod Betts, Jessica Falk Michelli, William Gersten, Lori Thacker, and Alan Hersh

Employee Organizations: Municipal Employees Association,
AFSCME Local 127 AFL-CIO, and
Deputy City Attorney Association

REFERRED TO CLOSED SESSION OF TUESDAY, MAY 6, 2008

DCAs Assigned: W. Gersten/J. Falk Michelli/L. Thacker/A. Hersh

The Mayor and City Council will be updated on the status of the labor negotiations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:07 p.m. - 3:09 p.m.)

Council President Peters closed the hearing.

ITEM-150: Fiscal Year 2009 Annual Action Plan and Substantial Amendment Five Year Plan of the Consolidated Plan to the United States Department of Housing and Urban Development (HUD). (Citywide.)

(See San Diego Housing Commission Report No. LUH-08-06, and Report to the City Council No. CCR-08-03.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-941 Rev.) ADOPTED AS AMENDED WITH REFERRAL AS
RESOLUTION R-303650

Approving the City's federally required Fiscal Year 2009 Annual Action Plan for
Community Development;

Approving the application for a Substantial Amendment to the FY 2005-FY 2009
Consolidated Plan;

Authorizing the Chief Executive Officer of the San Diego Housing Commission, or her designee, to submit the Plan and the Substantial Amendment, on behalf of the City, to the U.S. Department of Housing and Urban Development for its review and approval.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 4/16/2008, LU&H voted 3 to 0 to approve the recommendation and forward to the Housing Authority. (Councilmembers Atkins, Maienschein, and Hueso voted yea. Councilmember Madaffer not present.)

SUPPORTING INFORMATION:

In 1994, HUD began requiring entitlement jurisdictions to prepare a five-year strategic planning document entitled the Consolidated Plan. In order to comply with HUD requirements, each entitlement jurisdiction is required to submit an annual application (Action Plan) and an annual performance report (Consolidated Annual Performance and Evaluation Report or CAPER).

Action Plans provide a one-year strategy to accomplish five-year goals identified in the Consolidated Plan. Action Plans also seek to meet the three goals of HUD for extremely low and low income people and families (those earning up to 80% of the Area Median Income):

- 1) Decent Housing
- 2) Suitable Living Environment
- 3) Expanded Economic Opportunities.

FY09 is the fifth year in the City's Five-Year (2005-2009) Consolidated Plan cycle.

The FY09 Action Plan serves dual purposes. First, it serves as the City's comprehensive strategic plan for community development, including affordable housing, economic development and human service activity. Second, it is the single application and spending plan for five federal entitlement programs totaling approximately \$26 million for FY09. The breakdown of the estimated funding amounts per program is as follows:

- Community Development Block Grant (CDBG: \$14,852,521)
 - HOME Investment Partnerships (HOME: \$8,177,066)
 - American Dream Down payment Initiative (ADDI: \$59,227)
 - Emergency Shelter Grants (ESG: \$664,756)
 - Housing Opportunities for Persons with AIDS (HOP WA: \$2,646,000)
-

The City of San Diego will be the grantee for all funds, although program responsibilities for HOME/ADDI are delegated to the San Diego Housing Commission and HOP WA responsibilities are delegated to the County of San Diego.

The draft Plan has been developed through a collaborative effort between staff of the Housing Commission, the City of San Diego's Community Services Division and the County of San Diego's Department of Housing and Community Development.

Upon receipt by HUD, the Plan will be deemed approved unless HUD notifies the City that additional information is required for the Plan to meet the criteria for approval. With approval, the Plan will generate approximately \$26 million in FY 09 to implement and continue community development efforts throughout the City.

FISCAL CONSIDERATIONS:

Without a final HUD approved FY09 Action Plan, the City will be ineligible to receive approximately \$26 million in federal funds that support community/economic development and affordable housing activities.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The draft FY09 Action Plan is available for public review from April 4, 2008 through May 5, 2008. The Plan is located in the reference section of the City's branch libraries. A notice of public review was published in four local newspapers, including one Spanish publication. In addition, opportunities for public input are available through a series of ongoing community presentations and hearings (see Attachment 3). A summary of public comments and responses has been included as Attachment 4. This summary outlines public input thus far and is continually revised as new input is received.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The Code of Federal Regulations requires that Consolidated Plan programs serve low and extremely-low income persons. Funds are made available to Community Based Organizations (CBO's) through a competitive process. In FY07 these funds were leveraged with \$150M in state and local fund to provide an array of services including but not limited to: homeless services, subsidized housing, small business development, redevelopment efforts, affordable housing financing, rehabilitation and neighborhood revitalization.

Philips/Vaughan

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. - 3:06 p.m.)

MOTION BY HUESO TO ADOPT AS AMENDED BY CHANGING THE LANGUAGE ON PAGE 5-16, SECTION 5.13 UNDER "COMMUNITY AND SUPPORTIVE SERVICES," THE LAST PARAGRAPH, "THE PROGRAM PROVIDES FOR CODE ENFORCEMENT ACTIVITIES LOCATED WITHIN THE CITY'S LOW TO MODERATE INCOME AND BLIGHT DESIGNATED CENSUS TRACT/TARGET AREAS," TO READ, "THE PROGRAM PROVIDES FOR CODE ENFORCEMENT ACTIVITIES LOCATED WITHIN DETERIORATED OR DETERIORATING AREAS AS DETERMINED BY THE CITY." ALSO, REFER TO STAFF TO WORK WITH THE PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE TO CREATE A TEAM TO WORK WITH THE HOUSING COMMISSION ON THE CONSOLIDATED PLAN. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-200: Authorizing Transfer and Appropriation of \$4,500,000 to the Public Liability Fund from Unallocated Reserves.

STAFF'S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-2008-139) INTRODUCED AND ADOPTED AS O-19745
(New Series)

Amending Ordinance No. O-19652 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2008 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year" by authorizing the appropriation and transfer of \$4,500,000 from the General Fund Unallocated Reserve to the Public Liability Fund for the purposes of paying costs resulting from damage claims and lawsuits against the City;

Amending the Appropriation Ordinance to appropriate \$4,500,000 from the General Fund Unallocated Reserve to Fund 100, Dept. 601, Citywide Program Expenditures (Org. 2900);

Authorizing the City Auditor and Comptroller to transfer \$4,500,000 from Fund 100, Dept. 601 Citywide Program Expenditures (Org. 2900) to the Public Liability Fund 81140.

STAFF SUPPORTING INFORMATION:

The purpose of the Public Liability Fund is the payment of costs resulting from damage claims and lawsuits against the City. At the beginning of Fiscal Year 2008 there was \$20.3 million available in the Fund. However, this funding has been exhausted and there are insufficient funds to meet future obligations through the end of this fiscal year. For the last several years, the City has been involved in significant and complex litigation that has resulted in unanticipated cost increases to the Public Liability Fund. It is projected that an additional \$4.5 million will be required by June 30, 2008 for various claim related expenses incurred this fiscal year.

FISCAL CONSIDERATIONS:

\$4,500,000 for this action is available in the Unallocated Reserves for transfer to Public Liability Fund 81140 via Fund 100, Dept. 601 Citywide Program Expenditures.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Not applicable.

Bych/Lewis

Aud. Cert. 2800726.

Staff: Greg Bych - (619) 236-6651
Brant Will - Deputy City Attorney

NOTE: Today's action is the second public hearing and the introduction and adoption of the ordinance. See Item 337 on the docket of Tuesday, April 29, 2008, for the first public hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:15 p.m.)

MOTION BY ATKINS TO INTRODUCE, DISPENSE WITH THE READING, AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-201: Response of the City Council to the Grand Jury Report "Water Conservation: Sober Up San Diego, the Water Party is Over".

(See Independent Budget Analyst Report No. 08-38.)

INDEPENDENT BUDGET ANALYST'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-942) ADOPTED AS AMENDED AS RESOLUTION R-303651

Approving and adopting as its own the response to the 2007-2008 San Diego County Grand Jury Report filed February 13, 2008, and titled "Water Conservation: Sober Up San Diego, the Water Party is Over," as set forth in IBA Report No. 08-38 dated April 25, 2008;

Authorizing and directing the City Council President, on behalf of San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than May 13, 2008.

Staff: Penni Takade - (619) 236-6445
Catherine M. Bradley – Chief Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:09 p.m. - 3:42 p.m.)

MOTION BY FRYE TO ADOPT THE RECOMMENDATIONS AS STATED BY THE INDEPENDENT BUDGET ANALYST AS AMENDED BY ADDING LANGUAGE IN FINDING 3 TO ADDRESS THE ISSUE OF "REASONABLE COST." REFLECT THE VOTES SPECIFICALLY ON THE RECYCLED WATER ISSUE IN RECOMMENDATION 8-13, FINDING 5 AND FINDING 6, ALSO FORWARD THE MINUTES OF THOSE ACTIONS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-250: **Notice of Pending Final Map Approval – Mission Pacific.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "Mission Pacific" (T.M. No. 147492/PTS No. 85076), located on the west side of 44th Street north of Meade Avenue in the Mid-City: Kensington-Talmadge Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

ITEM-251: Notice of Pending Final Map Approval – 4840 W. Mountain View Drive.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "4840 W. Mountain View Drive" (T.M. No. 153408/PTS No. 90990), located on the west side of West Mountain View Drive between Collier Avenue and Copley Avenue in the Mid-City: Normal Heights Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

REPORT OUT OF CLOSED SESSION:

None.

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NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 3:45 p.m. in honor of the memory of:

Abraham Dumanis at the request of Council Member Atkins.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:43 p.m. - 3:45 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

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UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, MAY 6, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:04 a.m. The meeting was recessed by Council President Peters at 11:40 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:08 p.m. with Council Member Hueso not present. Council President Peters recessed the meeting at 2:26 p.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 2:27 p.m. with Council Member Hueso not present. Council President Pro Tem Madaffer recessed the meeting at 4:09 p.m. for the purpose of a break. Council President Pro Tem Madaffer reconvened the meeting at 4:19 p.m. with Council President Peters not present. The meeting was adjourned by Council President Pro Tem Madaffer at 4:52 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc/mz)

FILE LOCATION:

MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-not present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. -10:46 a.m.)

PUBLIC COMMENT-2:

Jarvis Ross commented on the airport.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:46 a.m. - 10:48 a.m.)

PUBLIC COMMENT-3:

Ted Patrick commented on a killing in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. – 10:51 a.m.)

PUBLIC COMMENT-4:

Referred to City Attorney: John Dean commented on political signs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. – 10:54 a.m.)

PUBLIC COMMENT-5:

Ron Boshun commented on the actions of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. - 10:59 a.m.)

PUBLIC COMMENT-6:

Phil Hart commented on the City's finances.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:01 a.m.)

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PUBLIC COMMENT-7:

Kristen Tener and Lee Eyer invited all to attend the San Diego County Fair.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. - 11:03 a.m.)

PUBLIC COMMENT-8:

Elinor Rector commented on various topics.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. - 11:06 a.m.)

PUBLIC COMMENT-9:

Izean Rim Jr., commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. - 11:09 a.m.)

PUBLIC COMMENT-10:

Thomas Glasser commented on community attacks.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:09 a.m. - 11:11 a.m.)

PUBLIC COMMENT-11:

Cynthia Conger commented on cell/wi-fi transmitters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:12 a.m. - 11:15 a.m.)

PUBLIC COMMENT-12:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:18 a.m. - 11:21 a.m.)

PUBLIC COMMENT-13:

Joy Sunyata presented the Red Beret Award to the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:21 a.m. - 11:24 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS:

APPROVED

Approval of Council Minutes for the meetings of:

- 04/01/2008
- 04/07/2008 - Adjourned
- 04/08/2008 - Adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:08 a.m. – 10:09 a.m.)

MOTION BY ATKINS TO APPROVE. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

ITEM-31: San Diego River Day.

MAYOR SANDERS', COUNCILMEMBER ATKINS', AND COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-962) ADOPTED AS RESOLUTION R-303652

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Commending the San Diego River Park Foundation for organizing San Diego River Days 2008;

Proclaiming May 6, 2008, to be "San Diego River Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:15 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-32: Water Awareness Month.

**COUNCIL PRESIDENT PETERS' AND COUNCILMEMBER FRYE'S
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-977) ADOPTED AS RESOLUTION R-303653

Proclaiming the month of May 2008 to be "Water Awareness Month" in the City of San Diego and supporting the exemplary efforts of the Water Department.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:21 a.m.)

MOTION BY FRYE TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-33: Lyme Disease Awareness Month.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-840) ADOPTED AS RESOLUTION R-303654

Proclaiming April 2008 to be "Lyme Disease Awareness Month" in the City of San Diego to recognize and applaud the efforts of the Lyme Disease Support Group, which seeks to protect and educate the people of San Diego on the danger and prevention of Lyme Disease.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. – 10:39 a.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-50: Contract Change Order No. 2 with Habitat West Inc. for Los Peñasquitos North Wetland Creation Project. (Los Peñasquitos Canyon Preserve Community Area. District 1.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/22/2008, Item 50. (Council voted 8-0):

(O-2008-124) ADOPTED AS ORDINANCE O-19746 (New Series)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, Change Order No. 2, dated January 2, 2008, together with the changes set forth, amounting to an extension of time of 1,095 calendar days, issued in connection with the agreement between the City and Habitat West, Inc.;

Declaring that the above activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378 because this activity is subsequent discretionary approval of a project which was adequately addressed in Environmental Impact Report, PTS No. 6020, and there is no change in circumstance, additional information, or project changes to warrant additional environmental review.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-51: General Fund Deferred Maintenance Capital Improvement Projects Financing. (Citywide.)

(See Reports to the City Council No. 08-042, 08-041, and 08-30; memorandum from Lakshmi Kommi dated 3/17/2008; and PowerPoint regarding Deferred Maintenance Funding Lease Revenue Bonds, Series 2008A.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 4/22/2008, Item 331, Subitem A. (Council voted 7-1. Councilmember Frye voted nay):

(O-2008-129) ADOPTED AS ORDINANCE O-19747 (New Series)

Approving the form of and authorizing the execution and delivery of a site lease, a lease, and a purchase agreement and authorizing the execution, delivery and performance of an assignment agreement and an indenture by the Public Facilities Financing Authority of the City of San Diego, and approving and authorizing the issuance and sale of not to exceed \$108,000,000 of the Authority's Lease Revenue Bonds, Series 2008A (Various Capital Improvement Projects), .

approving the form of and authorizing the execution and delivery of a financial advisory services agreement, authorizing the City Attorney to appoint bond counsel, and approving other documents and actions in connection therewith.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:24 a.m. – 11:40 a.m.)

MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

* ITEM-100: Participation Agreement with DMH Lindo Paseo, LLC for the Water Main Upgrade. (College Community Area. District 7.)

(See Water Department's 2/11/2008 Executive Summary Sheet and Water Department's 2/27/2008 PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-901) ADOPTED AS RESOLUTION R-303655

Authorizing the Mayor, or his designee, to award and execute, for and n behalf of said City, an Agreement with DMH for the design and construction of the Improvements in Lindo Paseo and Campanile Drive, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$320,000, solely and exclusively, for the purpose of executing this Agreement, contingent upon the City Auditor and Comptroller first furnishing one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$320,000 from Water Fund 41500, CIP-73-083.0, Lindo Paseo Water Main Upgrade, for the purpose of providing funds for the Improvements in the above referenced Agreement;

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 exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 2/27/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

DMH Lindo Paseo, LLC, a California Limited Liability Company, is the owner of certain property known as Plaza Lindo Paseo within the College Area Community Planning Area.

As a condition of approval for construction of new condominiums and retail space, and in order to provide adequate fire protection for the new project, the developer is required to replace the existing cast iron water mains in Linda Paseo from 55th Street to Campanile Drive and in Campanile Drive from Linda Paseo to Montezuma Road with 12-inch PVC water mains, a distance of approximately 1,665 linear feet. The replacement of this cast iron water main is within the Department of Health Services Compliance Order (Amendment No. 11 to Compliance Order 04-14-96CO-022). The City's pro rata share for replacement of the existing 6-inch cast iron main is \$320,000. The Developer's share is for the incremental cost of upsizing the 8 inch diameter water main to 12 inches at a cost to the Developer of \$72,000.

The City finds that the public interest is served by the completion of the water facilities required to improve the water system. Construction of the water facilities will be expedited by entering into a participation agreement allowing the Developer to construct the required water facilities. The estimated cost of the project is \$392,000, but the City's reimbursement cost shall not exceed a Maximum Cost of \$320,000. The Developer is responsible for any costs in excess of that amount. Failure to replace these aging and undersized water mains could result in disruption of water service and possible hardship to the impacted community.

FISCAL CONSIDERATIONS:

The total cost to the City for this project is \$320,000 and the City's participation will not exceed \$320,000. Funding is available in Water Fund 41500, CIP-73-083.0. The Water Fund total project cost of \$320,000 may be reimbursed approximately 80% by current or future debt financing.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Participation Agreement was approved 4-0 by the NR&C Committee on 2/27/08.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Water Department customers in the project area and the Department of Public Health.

Ruiz/Barrett

Aud. Cert. 2800705.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-101: Agreement with Boyle Engineering Corporation for As-Needed Assessment Engineering Services. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-893) ADOPTED AS RESOLUTION R-303656

Authorizing the Mayor to execute an Agreement for Design Professional Services (Agreement) with Boyle Engineering Corporation, a California corporation;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$250,000 from Maintenance Assessment District Management Fund No. 70208 to satisfy the Agreement, provided the City Auditor and Comptroller first furnishes one or more certificates certifying the funds are available.

STAFF SUPPORTING INFORMATION:

The Park and Recreation Department's Maintenance Assessment Districts Program currently manages forty-eight (48) Maintenance Assessment Districts throughout the City. The services of Boyle Engineering Corporation are required in order to meet the provisions of Article XIID of the California Constitution (Proposition 218) and levy an assessment on real property via the County of San Diego Property Tax enrollment.

Boyle Engineering Corporation, an engineering firm, would be used on an As-Needed Basis to evaluate and propose district boundaries, prepare apportionment methodologies, document changes to existing Districts, and prepare reports and assessment maps for the formation of new districts. Each of these services requires professional assessment engineering standards considered defensible and must meet the burden of proof requirements of Assessment Law, as adopted by the City and interpreted by the City Attorney and/or outside counsel.

Under this agreement, Boyle Engineering Corporation would evaluate and engineer new proposed Maintenance Assessment Districts, prepare annual updates to the assessment engineer's reports for the City's existing Maintenance Assessment Districts; and provide other as-needed assessment engineering services.

FISCAL CONSIDERATIONS:

Funds for this action are available in the Maintenance Assessment District Management Fund (No. 70208) in the amount of \$250,000. New Maintenance Assessment District formation will be funded by applicable community funding sources (such as developer deposits, formation funds per City Council Policy 100-21, or private contributions) as funding becomes available. Below is a table of proposed tasks and estimated expenditures by Fiscal Year. Entering into this agreement will not obligate any communities listed below to undergo a balloting process for forming a new Maintenance Assessment District.

<u>Proposed Task</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>TOTAL</u>
Annual Update	\$65,000	\$70,000	\$135,000
Assessment Engineering Consultation	\$10,000	\$10,000	\$20,000
Balloting/Mailing	\$10,000	\$10,000	\$20,000
MAD Formation Services	\$20,000	\$55,000	\$75,000
TOTAL	\$105,000	\$145,000	\$250,000

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Annual updates to the assessment engineer's reports are prepared by the assessment engineer to reflect changes in land use and assessment rates. These reports are typically presented to the City Council in early July for approval to levy assessments for the upcoming Fiscal Year.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Most Maintenance Assessment Districts have Citizen Advisory Committees and the assessment engineer often assists with interpretation and analysis of the district's improvements and benefits to the community. The assessment engineer will present findings to Citizen Advisory Committees or Community Groups on as-needed basis.

EQUAL OPPORTUNITY CONTRACTING:

The City's 15% subconsultant participation goal is voluntary, however, strongly recommended. Boyle has satisfied 10% of that goal and has submitted an Equal Opportunity Employment Plan. EOC staff will monitor compliance with contract goals, the City's Equal Opportunity Contracting (SD Ord. No. 1873, Sect 22.2701) and Non Discrimination in Contracting Ordinances (SDMC Sections 22.3501-22.3517).

Funding Agency: City

Prevailing Wages: Does not apply.

Subconsultant

Participation: Lintvedt, McColl & Assoc. (White Female / DBE)	\$25,000	10%
Total Certified Participation	\$25,000	10%
Total Other Participation	\$0	0%
Total Participation	\$25,000	10%

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

All citizen advisory committees for existing districts would obtain a copy of the Assessment Engineer's Report through regular meetings or by visiting the City's webpage. Any Maintenance Assessment District formation process would involve community input and discussion. This action does not bring forward any specific Maintenance Assessment District formation proposals but rather provides those services for an as-needed assessment engineer to provide interested communities.

LoMedico/Heap

Aud. Cert. 2800696.

Staff: Andrew Field - (619) 533-6724
Brock Ladewig – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-102: Mission Hills Neighborhood Park Tot Lot Renovation and Donation. (Uptown Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-961) ADOPTED AS RESOLUTION R-303657

Authorizing the acceptance of the donations from the Mission Hills Town Council and the Mission Hills Main Street Foundation of approximately \$110,000 in tot lot improvements for the Mission Hills Neighborhood Park;

Declaring that this activity is categorically exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15302, Replacement or Reconstruction.

STAFF SUPPORTING INFORMATION:

Mission Hills Neighborhood Park is located in the Uptown community planning area, in the neighborhood of Mission Hills. The park was initially developed in 1969, and the current tot lot equipment was installed in 1991. The existing equipment is in fair condition but is showing signs of wear. Park and Recreation staff has replaced damaged equipment in the past as needed. At approximately 17 years of age, the existing play equipment is reaching the end of its expected life span. The sand surfacing in the tot lot is old and in need of replacement. The existing rubber surfacing does not provide universal access in accordance with current standards. Picnic tables are old and showing signs of wear.

The community desires to replace the existing tot lot equipment and surfacing with new equipment that will enhance the play value, accessibility and safety of the tot lot. New play equipment will meet more current safety standards and increase the play value. New rubberized surfacing will assure universal access to all play equipment. New sand surfacing will provide additional safety and play value as well. Improvements to the walkway from the public right-of-way to the tot lot will bring the path of travel into compliance with current standards. Additional picnic tables and benches will provide improved and accessible seating.

Volunteers with the Mission Hills Town Council have solicited proposals from various playground manufacturers for design/build of the tot lot improvements. The team of T.D. Grogan Construction and Landscape Structures, Inc. was selected by the Mission Hills Town Council to provide the design/build services.

The estimated value of the tot lot and site improvements is approximately \$110,000. The Mission Hills Town Council was established in 2007, to serve the residents of Mission Hills as a unified voice, and to communicate with elected officials and neighbors.

There is an elected Board of Trustees who serves two-year terms. There are 11 trustees (four officers and seven members at large). The Mission Hills Town Council is currently in process to establish itself as a non-profit organization. The Mission Hills Main Street Foundation is a non-profit public benefit corporation with the specific purposes to develop and implement a program with its main focus on revitalization of the public, commercial and residential areas of Mission Hills by incorporating a historic preservation ethic, including the construction and/or maintenance of public buildings, improvements, monuments or works.

FISCAL CONSIDERATIONS:

Park and Recreation staff is available to provide support to the Mission Hills Town Council and Mission Hills Main Street Foundation during design and construction of the proposed tot lot improvements. Park and Recreation staff will also assist in the removal and disposal of existing tot lot equipment. The proposed tot lot improvements will reduce the current demand for tot lot maintenance by providing new equipment, sand and rubberized surfacing.

Funding for the tot lot improvements will be raised by the Mission Hills Town Council and the Mission Hills Main Street Foundation through donations and other fund raising activities. County Supervisor Ron Roberts has pledged to match the amount of the funds raised, up to \$57,500.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

With assistance from Park and Recreation staff, volunteers have coordinated the design of the tot lot with the Mission Hills Town Council and the Mission Hills Main Street Foundation. This project was presented to the Mission Hills Town Council at their January 2008, Town Hall meeting, and received unanimous support. This project has also been reviewed by, and received a recommendation of approval from, the University Heights Recreation Council at their April 3, 2008 meeting. The University Heights Recreation Council meeting was publicly noticed in accordance with Council Policy 600-33 and the San Diego Municipal Code.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Stakeholders include the residents of the Mission Hills community, the Mission Hills Town Council, the Mission Hills Main Street Foundation, and the University Heights Recreation Council. The contractor will be T. D. Grogan Construction. The playground equipment manufacturer will be Landscape Structures, Ink. The projected impacts are considered to be positive.

Lomedico/Heap

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-103: Internet Crimes Against Children (ICAC) State Grant.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-870) ADOPTED AS RESOLUTION R-303658

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to apply for, accept, and expend the grant funds from the State of California, OES;

Authorizing the Mayor, or his designee, to execute all aspects of program operation, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available, and to certify that the City will comply with all applicable statutory or regulatory requirements related to grant funding;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend these grant funds up to an amount not to exceed \$250,000;

Declaring that any resources received hereunder shall be used to supplement and not to supplant expenditures controlled by this body; and that personnel positions, if any, funded under this grant are not subject to local hiring freezes;

Declaring that 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).

STAFF SUPPORTING INFORMATION:

Since its initial grant funding in May 2000, the San Diego Internet Crimes Against Children Task Force (SDICAC) has become an established part of the San Diego County law enforcement community. SDICAC has brought an effective combination of computer technology and investigative expertise to bear on problems related to the on-line exploitation of children. SDICAC will use these additional funds for the following goals:

- Serve as a resource for communities and agencies within the geographic service area.
- Conduct both proactive and reactive investigations into the computer/technology crimes perpetrated against children and youth.
- Serve as a forensic resource to affiliate agencies and other agencies within the geographical area of service.
- Assist, to the extent possible, with the effective prosecution of cases at the appropriate level.
- Respond to referrals from agencies (other task forces, federal partners, cyber tips, etc.)
- Engage in law enforcement and community outreach activities including training, prevention, and education activities.
- Formalize law enforcement partnerships through signed Memorandums of Understanding (MOUs) that include adoption of Federal ICAC Task Force investigative standards.
- Provide assistance to participating agencies through training opportunities, equipment etc., as funding allows.
- Participate in nationally coordinated investigations.

FISCAL CONSIDERATIONS:

Funds from this grant are allocated to Personnel Services and Equipment. There is no requirement for matching funds, nor to continue grant program operations or expenditures after grant funding is exhausted.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Federal ICAC Grants: R-293034.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

SDICAC provides presentations for numerous groups, including (but not limited to) schools, youth organizations, community-based organizations, state and local law enforcement associations, businesses and business organizations, victim service providers, faith-based organizations, the media, and family advocacy organizations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: NA

Lansdowne/Olen

Staff: Donna J. Warlick - (619) 531-2221
Mary T. Nuesca - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-104: Fire Rescue Department Fire Stations to Serve as Safe Surrender Sites for Infants Per Health and Safety Code Section 1255.7.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-929) ADOPTED AS RESOLUTION R-303659

Declaring that all San Diego Fire-Rescue Department fire stations open 24 hours per day, seven days per week, are designated Safe Surrender sites within the meaning of Section 1255.7 of the Health and Safety Code;

Authorizing the Mayor, City Auditor and Comptroller, or their designees, for and on behalf of the City of San Diego, to execute all aspects of program operation to enable San Diego Fire-Rescue Department fire stations to serve as Safe Surrender sites, and may spend up to \$1,500 to implement this Resolution.

STAFF SUPPORTING INFORMATION:

Infant abandonment is an event that does not occur very often, but when it does, it often results in serious injury or death. In 2001, California SB 1368 became law and established the Safely Surrender Baby program. The purpose of the law is to encourage parents to bring unwanted infants, up to three days old, to reception centers such as hospitals or fire stations, rather than abandon them in dumpsters or bushes. Under California SB 1368, no names are required, and the parent(s) will not be subject to prosecution for child abandonment. Additionally, the baby will receive needed medical treatment and be placed in an adoptive home. There is a mechanism for parents to reclaim the infant within 14-days if deemed appropriate by Child Welfare Services.

The Safely Surrendered Baby law established hospitals as safe haven sites, and allowed counties to designate other facilities, such as fire stations, as such sites. On December 11, 2007, the San Diego County Board of Supervisors approved the designation of fire stations that are staffed full-time as safe haven sites. Their decision, in part was based on fire stations being located in communities where people work and live, can be less intimidating than hospitals, and are recognized by the public as places where people can go for help.

Statewide, 182 newborns have been safely surrendered in California since the law was enacted. Unfortunately, infants continue to be illegally abandoned, resulting in injury and death.

In north San Diego County, two abandoned infants have been found dead in the past two years. It is frightening to consider how many abandoned infants were never found. San Diego Fire-Rescue believes that the opportunity of hope that a fire station safe haven could provide for a potentially abandoned infant is well worth the minimal cost and effort to provide such service.

Adoption of the resolution would authorize the Fire-Rescue Department to engage in the Safely Surrendered Baby Program and expend the funds necessary for training, materials and station signage for the program. If approved, all fire operations personnel would be trained on how to manage a safe surrender situation in accordance with the law.

FISCAL CONSIDERATIONS:

Training and materials (Safe Surrender Kits and Signage for all Fire Stations) would constitute a one time cost of approximately \$ 1,500. Funding for this effort would be borne by San Diego Medical Services Enterprise, LLC.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public outreach and communication for this program is being coordinated through the San Diego County Fire Chiefs Association.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Jarman/Olen

Staff: Tracy Jarman - (619) 533-4301
David M. Stotland - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-105: Business Improvement District Budgets – FY 2009 Annual Appropriation Process. Approve FY 2009 Budget Reports for specified Business Improvement Districts; and declare Council’s intention to levy and collect annual assessments from businesses within specified Business Improvement Districts for FY 2009, and noticing the public hearing. (Centre City, College Area, Greater North Park, La Jolla, Mid-City, Mission Beach, Ocean Beach, Old San Diego, Pacific Beach, San Ysidro, Southeastern San Diego, and Uptown Community Areas. Districts 1, 2, 3, 4, 7, and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-967) ADOPTED AS RESOLUTION R-303660

Approving the Fiscal Year 2009 Budget Reports for specified Business Improvement Districts.

Subitem-B: (R-2008-968) ADOPTED AS RESOLUTION R-303661

Resolution declaring the Council's intention to levy and collect annual assessments from businesses within specified Business Improvement Districts for Fiscal Year 2009, and noticing the public hearing.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTIONS:

At the first Council date (May 5 or 6, 2008):

1. Approve the FY2009 Budget Reports for each specified Business Improvement District [BID] (Adams Avenue, City Heights, College Area, Diamond, Downtown, El Cajon Boulevard Central, El Cajon Boulevard Gateway, Gaslamp, Hillcrest, La Jolla, Littly Italy, Mission Hills, North Park, Ocean Beach, Old Town, Pacific Beach, and San Ysidro); and
2. Declare the Council's intention to levy and collect annual assessments from businesses within each specified BID, and set May 27, 2008 as the noticed public hearing date.

At the second Council date (the noticed public hearing on May 27, 2008):

3. Confirm the FY 2009 Budget Reports for each specified BID and levy the annual assessments for those BID's; and
4. Authorize the Mayor to execute the FY2009 BID Operating Agreements with the non-profit associations for the specified BID's.

STAFF RECOMMENDATION: Adopt the requested actions.

EXECUTIVE SUMMARY:

The California Streets and Highways Code authorizes the City to establish Business Improvement Districts (BIDs), to levy and collect an assessment from businesses within the BIDs, and to apply these assessments toward improvements and activities that benefit the businesses within their respective BIDs. The City established each of the BIDs by adopting an ordinance which details the street ranges to be included in the BID, the categorization of the types of businesses within each BID, and in some cases the size of the businesses as determined by the number of employees. The assessment levels, as determined by these factors, are also detailed in each ordinance.

Under State law the City Council must annually review and approve the Budget Reports for the BIDs. In addition, the City Council must annually authorize the levying of the assessments as established in the respective ordinances and hold a noticed public hearing on the matter. Once authorized, the BID assessments are collected by the City Treasurer at the same time and in the same manner as the City's business tax.

The City collects approximately \$1.3 million annually in BID assessments from approximately 12,000 businesses; these funds are accounted for separately in the City's accounting system and are provided to the non-profit business associations (whose memberships include the businesses in the respective BID's) under an operating agreement. Generally, funds are remitted to the non-profit associations on a reimbursement basis to manage BID programs in the respective BID's, though working capital advances are permitted under certain circumstances. State law also provides that the Budget Reports shall identify any surplus or deficit revenues to be carried over from a previous fiscal year. These funds are identified in the Budget Reports as Estimated Unexpended Assessments to be carried forward and Estimated Outstanding Operating Advances. In approving the Budget Reports the City Council appropriates the assessments to be collected and the prior year surplus funds.

In accordance with State Streets and Highways Code, proposed modifications to the Adams Avenue BID and the North Park BID are noted in the Budget Reports. Actions to initiate the amendment to the Adams Avenue BID have started and it is anticipated that the ordinance amendment will be effective as of July 1, 2008. Balloting is underway in North Park and once it is completed then the proposed modifications to the North Park BID ordinance and Budget Report will be brought to City Council for approval.

FISCAL CONSIDERATIONS:

The City does not retain any of the BID assessments for administrative or other purposes, there is a zero net fiscal impact for collecting and disbursing the BID assessments.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

R-302888 and R-302889 (August 3, 2007) and R-302820 and R-302821 (July 16, 2007) approving the FY2008 Budget Reports for, and authorized the levying of assessments on businesses within, the following BID's: Adams Avenue, City Heights, College Area, Diamond, Downtown, El Cajon Boulevard Central, El Cajon Boulevard Gateway, Gaslamp, Hillcrest, La Jolla, Littly Italy, Mission Hills, North Park, Ocean Beach, Old Town, Pacific Beach, and San Ysidro.

EQUAL OPPORTUNITY CONTRACTING:

"This agreement is subject to Article 10, Sections 10.1 and 10.2 as stated in each Agreement for Management of the San Diego Business Improvement Districts, the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517)".

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The non-profit associations that manage the BID's, holds regular meetings and publishes regular newsletters which are distributed to the businesses within the respective BID's. Organizational budgets and work plans are developed by the respective boards and approved at their meetings.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Businesses within the respective BIDS are the key stakeholders and beneficiaries of community improvements and business marketing and development. Residents and property owners may also benefit from public improvements and enhanced business services.

Anderson/Kessler

NOTE: This activity is not a "project" and is therefore not subject to CEQA pursuant to State Guidelines Section 15060 (c) (3).

Staff: Scott Kessler – (619) 236-640/Meredith Dibden-Brown – (619) 236-6485
Kimberly K. Harris – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-330: Response to the Report from the Independent Oversight Monitor.

MAYOR SANDERS' RECOMMENDATION:

Take the following actions:

CONTINUED TO TUESDAY, MAY 20, 2008

Authorizing the Council President to co-sign the response prior to its submittal to the Securities and Exchange Commission;

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

SUPPORTING INFORMATION:

The 2006 Report of the Audit Committee of the City of San Diego (the "Kroll Report") and the Cease and Desist Order of the United States Securities and Exchange Commission issued in November 2007 established an Independent Monitor/Consultant to oversee and report on the City of San Diego's implementation of remedial actions included in the Kroll Report's recommendations and as required by the SEC. Mr. Stanley Keller with the firm Edwards Angell Palmer & Dodge LLP was contracted to serve as this Independent Monitor in January 2007.

Mr. Keller issued the First Annual Report of the Independent Consultant to the City of San Diego, dated March 25, 2008.

The Mayor's office, with input from the Office of the Independent Budget Analyst and the Disclosure Practices Working Group, has prepared a response to Mr. Keller's report. This response is being provided for review by the City Council with a request for the Council President to be authorized to co-sign the response prior to its submittal to the United States Securities and Exchange Commission.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Jay Goldstone

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:43 a.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, MAY 20, 2008, FOR FURTHER REVIEW. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-331: Fiscal Year 2009 Community Development Block Grant (CDBG) Program.
(Citywide.)

(See Report to the City Council No. 08-070; and memorandum from Mayor Sanders dated 3/27/2008.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2008-974) ADOPTED WITH DIRECTION AS
RESOLUTION R-303662

Authorizing the City Auditor and Comptroller to accept CDBG funds in the amount of \$14,852,521 from the U.S. Department of Housing and Urban Development for the City's FY 2009 CDBG Program;

Approving the funding recommendations for the City's FY 2009 CDBG Program, set forth in Report to the City Council No. 08-070, contingent upon certification of funds availability by the City Auditor and Comptroller, and that the Core City Priorities and CDBG-Funded Projects approved for funding be incorporated into the City's FY 2009 Action Plan;

Directing that the Core City Priorities and those projects and programs approved for CDBG funding be incorporated into the City's FY 2009 CDBG Action Plan;

Authorizing the Mayor, or his designee, to negotiate and execute agreements, with those agencies for which projects and programs have been approved for CDBG funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Executive Director of the San Diego Housing Commission to negotiate and execute agreements, and any amendments thereto, with those agencies for which projects and programs have been approved for CDBG funding whose allocations the Mayor, or his designee, asks the San Diego Housing Commission to administer, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to appropriate and expend the CDBG funds for the Core City Priorities and those projects and programs approved for CDBG funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to reprogram funding from prior year CDBG-funded projects to existing and to FY 2009 projects and programs approved for CDBG funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to suspend the initiation of new HUD Section 108 Loans during FY 2009 that rely on CDBG and/or General Funds as a repayment source;

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

STAFF SUPPORTING INFORMATION:

The Federal Housing and Community Development Act of 1974 established the Community Development Block Grant (CDBG) Program, which is administered by the Department of Housing and Urban Development (HUD). The City of San Diego (City) has participated in this program since its inception. CDBG staff is responsible for grant compliance and the overall administration of the City's CDBG Program. Per City Council Policy 700-02 "CDBG Program" a formula for funding was created that apportions 60% of the annual CDBG entitlement to Council Districts, and 40% to the City-wide category. The amounts to Districts are based upon the % of low and moderate income residents in each District. The City's CDBG entitlement grant amount for Fiscal Year 2009 will be \$14,852,521. A total of 111 applications were received during the application period (February 1-28, 2008). All applications were forwarded to the City Council on March 24, 2008. A Memorandum was provided to the City Council on March 27, 2008 which outlined the proposed CDBG Budget.

In Fiscal Year 2008, HUD's Office of Community Planning and Development completed two "Monitoring Reviews" of the City's CDBG Program. A Fiscal Year 2007 On-Site Monitoring Review was completed in August, 2007 and an Environmental Monitoring was completed in February 2008. Several findings were identified and corrective measures recommended in each case. In addition, a letter was sent by HUD regarding the City's lack of an adequate "Fair Housing" Plan. HUD's Office of Inspector General has also begun an audit as of April 2008 of the City's CDBG loans with the Redevelopment Agency and has plans on doing a future audit of the CDBG Program. The first audit is anticipated to be completed around September 2008.

Understanding the need for reforms for some time, City Staff has been working towards reforming the CDBG Program during Fiscal Year 2007, per the Mayor's direction. As of August 2007, upon completion of the first HUD review, resources have been identified to address programmatic issues and those reform measures are currently underway.

FISCAL CONSIDERATIONS:

Funding available from the CDBG Program.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Budget Committee Meetings (12/6/07, 1/9/08, 1/16/08); Audit Committee Meeting (11/19/07); City Council Meeting (1/29/08).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The CDBG application process was noticed on the City of San Diego's website, and notices were mailed to agencies on the City's CDBG database (300 potential applicants). The availability of funds was also noticed in the San Diego Union Tribune newspaper.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents of low and moderate income communities; community based organizations; community planning groups; and other community development organizations.

Kessler/Anderson

Staff: Scott Kessler - (619) 236-6405

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:27 p.m. – 3:40 p.m.)

MOTION BY MADAFFER TO ADOPT WITH DIRECTION TO MODIFY THE FOLLOWING:

- 1) ALL MONIES THAT REFERENCE “THE FRIENDS OF MONTEZUMA LANGUAGE ACADEMY” SHALL BE PLACED INTO CIP 29-941.0 THAT WILL BE MANAGED BY ENGINEERING AND CAPITAL PROJECTS DEPARTMENT AND ENSURE DISTRICT 7 IS INVOLVED IN THIS PROJECT AS IT MOVES IN STAGES TO COMPLETION AND PARENTS SHALL BE INVOLVED IN AN OVERSIGHT CAPACITY;
- 2) BASED ON THE CITY ATTORNEY’S MEMO REGARDING “ELIGIBILITY OF CODE ENFORCEMENT FOR CDBG FUNDING,” ALLOCATE \$100,00 TO THE CITY OF SAN DIEGO NEIGHBORHOOD CODE COMPLIANCE DIVISION- PROATIVE CODE ENFORCEMENT FOR YEAR 2009 IN DISTRICT 4;
- 3) REFERENCING THE MAYOR’S FOR YEAR 2009 CDBG FUNDING PROPOSAL, AN ADDITIONAL \$47,703 HAS BEEN ALLOCATED TO THE COMMISSION ON GANG PREVENTION AND INTERVENTION FROM THE DISCRETIONARY CITYWIDE FUNDS;
- 4) ALLOCATE \$27,297 FROM DISTRICT FOUR’S RESERVES THAT WOULD BRING THE AMOUNT FOR THE COMMISSION ON GANG PREVENTION AND INTERVENTION-“CAPACITY BUILDING FOR ANTI-GANG PROGRAMS” TO THE FULL AMOUNT REQUESTED OF \$75,000;
- 5) OLD GLOVE THEATER PROJECT, CHANGE TO “SOUTHEASTERN SD RESIDENCY PROJECT: AS OPPOSED TO SOUTHWESTERN” AS CURRENTLY LISTED;

- 6) TRANSFER DISTRICT THREE'S INELIGIBLE ALLOCATION OF \$12,500 TO ENVIRONMENTAL SERVICES LEAD SAFE PROGRAM;
- 7) ADD \$15,000 TO THE CURRENT BUILDING IMPROVEMENT REQUEST FOR THE LGBT CENTER;
- 8) ALLOCATE \$4,000 FROM RESERVES TO RONALD MCDONALD HOUSE;
- 9) ADD \$100,000 FROM DISTRICT EIGHT'S RESERVES TO CODE COMPLIANCE;
- 10) AND FUNDS FOR CODE COMPLIANCE SHALL BE ALLOCATED, BUT NOT EXPENDED UNTIL IT COMES BACK IN OR BEFORE JULY 2008, TO SHOW COMPLIANCE WITH THE CDBG ELIGIBILITY REQUIREMENTS SET FORTH IN 24 CFR 570.202 (c). Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: Fiscal Year 2009 Social Services Program. (Citywide.)

(See Report to the City Council No. 08-071.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-975) ADOPTED AS RESOLUTION R-303663

Authorizing the City Auditor and Comptroller to accept the funding appropriations from the City's Community Development Block Grant (CDBG) Entitlement Grant, Emergency Shelter Grant (ESG), and the San Diego Housing Commission (SDHC) for the Fiscal Year 2009 Social Services Program, contingent upon approval by the Housing Commission Board and the Housing Authority (with respect to the funding appropriation from the SDHC only), contingent upon adoption of the FY 2009 Appropriation Ordinance, and contingent upon certification of funds availability by the City Auditor and Comptroller;

Approving and appropriating the funding recommendations for the Fiscal Year 2009 Social Services Program, set forth in Report to the City Council No. 08-071, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to negotiate and execute agreements, and any amendments thereto, with those agencies for which programs have been approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to appropriate and expend the CDBG, ESG, and SDHC funds for those programs approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller.

The City has a long history of allocating funding to social service programs in two broad categories: (1) City initiated social service programs that are funded to address identified social needs (e.g. Homeless Emergency Winter Shelter Program and Therapeutic Recreation Services); and (2) To support worthy social programs that were not City initiated, but provide benefits to City residents (e.g. Being Alive and Casa Familiar). For decades under the City Manager form of government, the City Council - through various Council Representatives - initiated social service funding recommendations prior to bringing forward the adoption of the Social Services Program Budget to the City Council. This practice was last utilized in FY 2002. The City Council then directed the City Manager to develop a formal selection process that was successfully utilized in Fiscal Years 2003 through 2005.

While the process established by the City in 2002 is still being used, since that time the program has experienced sharp reductions in funding that resulted in the elimination of the competitive process in Fiscal Year 2006. Subsequently, each year program staff has given the highest funding priority to "City-Initiated Programs", before providing support to the other programs being considered. The fiscal reality of the Program is that funding has been decreasing each year. Fiscal Year 2009 federal funding has decreased by \$89,979 from the current fiscal year.

However, the San Diego Housing Commission will be providing the City with an additional \$580,000 in funding to support the Cortez Hill Family Center (\$200,000) and the Homeless Emergency Winter Shelter Program (\$380,000) in FY 2009. This is in addition to the annual \$45,000 in funding that is provided annually to support the full cost of the Regional Task Force on the Homeless project. The additional funds from the San Diego Housing Commission will offset the reduction in federal funds and allow increased funding for the Cortez Hill Family Center and the Homeless Emergency Winter Shelter Program.

For the first time, full funding for the Homeless Emergency Winter Shelter Program is being proposed under the FY 2009 Social Services Program. No projects are being recommended for reduction in funding for FY 2009.

FISCAL CONSIDERATIONS:

There is no impact to the General Fund from this action. Funding for each program is available either from the City's CDBG entitlement grant, ESG, or the SDHC. It should be noted that the funds from SDHC are contingent upon approvals by the Housing Commission Board and the Housing Authority, which is scheduled to be presented in May 2008.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The application for federal entitlement grants (which includes the City's CDBG entitlement grant and ESG) is referred to as the Consolidated Plan. The Consolidated Planning process includes a community input process where staff presented the Plan and requested feedback from each community planning group that represents low and moderate income communities. Further, the process was brought before the Land Use and Housing City Council Committee and the San Diego Housing Commission for discussion. The City of San Diego did not issue a "Notice of Funding Availability" for FY 2009 Social Services Program funding due to reduced funding available.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents of low and moderate income communities; community based organizations; community planning groups; and other community development organizations.

Kessler/Anderson

Staff: Scott Kessler - (619) 236-6421

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:41 p.m. – 4:09 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: Three Actions Related to the Vacation of Portions of Fay Avenue. A public Right-of-Way Vacation and Coastal Development Permit for portions of unimproved Fay Avenue located adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard. (La Jolla Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying a Public Right-Of-Way Vacation and Coastal Development Permit for portions of unimproved Fay Avenue located adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard. The base zones are RM-2-5, OP-1-1, RS-1-7, Coastal Height Limit, and City Coastal (non-appealable) in the La Jolla Community Planning area.

(See Report to Council No. 08-055. CDP No. 527629/Public R-O-W Vacation No. 464892.)

(Continued from the meeting of April 21, 2008, Item 205, at the request of the applicant, for further review.)

NOTE: Hearing open. No testimony taken on 4/21/2008.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-855) ADOPTED AS RESOLUTION R-303664

Adoption of a Resolution of the Council of the City of San Diego certifying findings supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference, with respect to Coastal Development Permit No. 527629;

Granting Coastal Development Permit No. 527629 to the Real Estate Assets Department of the City of San Diego, La Jolla Methodist Church, Mario and Rene Spiazzi, and Maurizio Zanetti, Owners/Permittees, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

Subitem-B: (R-2008-854Cor.Copy) ADOPTED AS RESOLUTION R-303665

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

- (a) There is no present or prospective use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated; and
 - (b) The public will benefit from the action through improved use of land made available by the vacation; and
 - (c) The vacation does not adversely affect any applicable land use plan, and is consistent with the General Plan and approved Community Plan; and
 - (d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by this vacation;
- (1) That the public right of ways located at portions of Lot 1 and 2 in Block 17 and portions of Lots 5 through 8 in Block 18, as more particularly described in the legal description marked as Exhibit "A," and as shown on Drawing No. 20740-B marked as exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered summarily vacated;

- (2) That the City of San Diego reserves and excepts from the foregoing vacation the permanent easement and dedication as more particularly described hereinafter: Reserving and excepting to the City of San Diego the right, easement and privilege of placing, constructing, repairing, replacing, maintaining, using and operating public utilities of any kind or nature, including, but not limited to general utilities and all necessary and proper fixtures and equipment for use in connection therewith, through, over, under, upon, along and across the above described easement to be vacated and abandoned, together with the right of ingress thereto and egress therefrom, together with the right to maintain the said easement free and clear of any excavation or fills, the erection or construction of any building or other structures, the planting of any tree or trees thereon, or the drilling or digging of any well or wells thereon, together with the right to otherwise protect from all hazards the operation and use of any right reserved.

Upon acquisition of an encroachment permit from the City Engineer pursuant to the Municipal Code of the City, the owners of the underlying fee may utilize the above described parcel of land for structures, the planning or growing of trees or the installation of privately owned pipelines. The City of San Diego shall have the right to permit the use of the easement or easements herein described by any public utility either by conveyance of the necessary right to so use or by permitting such utility to utilize such right under and pursuant to a franchise with the City of San Diego;

- (3) That the easements and dedication reserved to the City herein are in, under, over, upon, along and across that portion of Fay Avenue, summarily vacated by this Resolution and as more particularly described in the legal descriptions marked as Exhibit "C" and "D" and shown on Drawing No. 20741-B marked as Exhibit "E", on file in the Office of the City Clerk;
- (4) 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. From and after the date of recordation of this Resolution, the summarily vacated public right of way shall no longer constitute a public right of way. Upon such recordation, the summary vacation is complete;

That this action is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301;

Directing the City Clerk to file a Notice of Exemption (NOE) with the Clerk of the Board of Supervisors for the County of San Diego regarding this project.

Subitem-C: (R-2008-197Cor.Copy)

ADOPTED AS RESOLUTION R-303666

Adoption of a Resolution of the Council of the City of San Diego authorizing the sales of portions of vacated Fay Avenue right-of-way and authorizing the mayor to execute and deliver a grant deed, and accept a grant deed to consummate the sales.

OTHER RECOMMENDATIONS:

This matter will not be heard by the Planning Commission. Pursuant to Section 112.0103 the discretionary actions have been consolidated to the highest decision maker, therefore the project will only be heard by the City Council.

The La Jolla Community Planning Group has recommended approval of the project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

1. Approval of Public Right-Of-Way Vacation, Coastal Development Permit, Right-Of-Way Dedication, General Utility Easement Dedication for portions of unimproved Fay Avenue adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard (La Jolla Methodist Church) within the La Jolla Community Planning Area.
2. Authorize the sale of City-owned portions of vacated Fay Avenue right-of-way within the footprint of the La Jolla United Methodist Church's complex ("Property"), and acquire portions owned by the Church that are underlying the pocket park and trail located adjacent to the Church property ("Exchange Site").

STAFF RECOMMENDATION:

Approve of the requested actions.

SUMMARY:

The subject site consists of unimproved portions of Fay Avenue between La Hermosa Avenue and La Jolla Boulevard, adjacent to the La Jolla Methodist Church at 6063 La Jolla Boulevard (Attachments 1 and 2). This is within the RM-2-5, OP-1-1 and RS-1-7 zone. The site is within the Coastal Zone (non-appealable) and requires a Coastal Development Permit. The request to vacate the unimproved portions of Fay Avenue requires a Public Right-Of-Way Vacation. The subject property was acquired by the City of San Diego in 1958 and 1960 to extend Fay Avenue. The proposed extension was later abandoned, thus the property is no longer needed for public uses and is recommended to be vacated.

The vacation has been requested by the La Jolla Methodist Church, Mr. Mario Spiazzi, an adjoining property owner at 6111 La Jolla Boulevard, and Mr. Maurizio Zanetti, owner of 6112 La Jolla Hermosa Street. The Spiazzi and Zanetti street segments proposed for vacation and subsequent sale by the City are part of their current yard areas adjacent to single family residences.

Portions of the Church's parking lots and children's playground are also owned in fee by the City (see Attachment 2).

Of the proposed vacated areas, the Church is the fee interest owner of some land that is physically included in a pocket park directly north of the Church, and an existing trail behind the complex. The City will acquire title for these areas. The value of the park sites and will be subtracted from the value of the property the Church is buying from the City.

PROPOSED TERMS OF SALES:

Based on a fair market appraisal conducted by an independent fee appraiser selected by the City of both the Property and the Exchange Site, the net compensation to the City of San Diego for the United Methodist Church sale and exchange, the value of the Property minus the Exchange Site, is \$339,876. Mario Spiazzi's segment was valued at \$286,000, and the Zanetti piece at \$37,000, as also determined by an independent fee appraiser, for an overall total of \$662,876.

The valuation of several of the Church-owned parcels was limited to 15% of market value due to an existing covenant restricting use of the land for parks, street, and parking purposes. As a result of later litigation, a court upheld the covenant as enforceable. If the Church later sells the acquired land at market rate, the City is to receive the 85% difference.

Below is a summary of the sale and exchange elements with the United Methodist Church:

<u>*Site</u>	<u>Owner</u>	<u>Use</u>	<u>Size</u>	<u>Value</u>	<u>Real Property Interest</u>
A1	LJUMC	Del Norte Park	450	Nominal.	Grant Fee Simple Title.
A2	LJUMC	ROW Easements	4,263	Nominal.	Grant Fee Simple Title.
A3	LJUMC	Street Access	825	Purchase Price Reflects Value Offset.	Grant Fee Simple Title.
B1	CITY	Daycare	2,138	15% of Fee value.	Grant Fee Simple Title.
B2	CITY	Daycare	1,794	Fee value.	Grant Fee Simple Title.
C1	CITY	Park	5,828	15% of Fee value.	Grand deed with covenant that upon future sale by LJUMC to a third party, the City of San Diego receive 85% of the then current value upon close of escrow.
<u>*Site</u>	<u>Owner</u>	<u>Use</u>	<u>Size</u>	<u>Value</u>	<u>Real Property Interest</u>
D	CITY	Park	8,250	15% of Fee value.	Grant deed with covenant that upon future sale with same 85% to City.

*Site numbers correspond to parcels A1 thru D on Attachment 3- Land Sale & Acquisition Plat.

FISCAL CONSIDERATIONS:

The net proceeds of the sale-exchange in the amount of \$662,876, less costs related to the sales, will be deposited in the Capital Outlay Fund 302453.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 7, 2008, the La Jolla Community Planning Group voted to approve the project as proposed with no conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the La Jolla Methodist Church, Mr. Maurizio Zanetti, the Spiazzi Family Trust and the City of San Diego. The City of San Diego will benefit by: receipt of the sale proceeds; relief from future liability and maintenance expenses associated with the ownership of the properties; and additional property taxes from the return of these properties to the tax roles. The acquired land will consolidate the City's ownership of the park and trail, thus assuring long term control of those facilities for continued public use. The project is primarily an action correcting ownership issues of existing parcels. No physical changes are to occur with this action, thus no impact is anticipated.

Anderson/Barwick

LEGAL DESCRIPTION:

Location of Activity: Fay Avenue located adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard.

Description of Activity: A Public Right-of-Way Vacation, Coastal Development Permit (CDP), Right-of-Way Dedication and General Utility Easement Dedication and Land Exchange to for portions of unimproved Fay Avenue located adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard. The site is located within the RM-2-5, OP-1-1 and RS-1-7 zone, the Coastal Height Limitation Overlay Zone, Transit Area, Residential Tandem Parking Overlay Zone and Council District 1.

NOTE: This activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to state CEQA Guidelines Section 15301.

Staff: James Anthony – (619) 533-6509
Todd Bradley – Deputy City Attorney

NOTE: Subitems A and B of this item are not subject to Mayor's veto.

FILE LOCATION: SUBITEMS A & C: MEET
SUBITEM B: STRT-J-2982 (39)

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:13 p.m.)

Testimony in favor by Linda Stanwood.

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

ITEM-334: 4532 Felton Street Vesting Tentative Map, Project No. 97653. Appeal of the Planning Commission's decision approving a Vesting Tentative Map to convert seven existing apartments to condominiums, including a request to waive the requirement to underground existing overhead utilities. (Normal Heights neighborhood of the Mid-City Communities Plan Area. District 3.)

Matter of the appeal by D. Scott Peters, Sterling Land Services, Inc., Surveyor from the decision of the Planning Commission in approving Vesting Tentative Map to convert seven existing residential units to condominiums, including a request to waive the requirement to underground existing overhead utilities, on a 0.152-acre site located at 4532 Felton Street in the RM-1-2 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights neighborhood of Mid-City Communities Plan Area.

(Continued from the meeting of April 22, 2008, Item No. 334, at the request of Councilmember Madaffer, to allow time for the City Attorney's office work with the applicant on the Covenant Agreement.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

CONTINUED TO TUESDAY, JULY 8, 2008;
REFERRED TO LAND USE AND HOUSING
COMMISSION

Granting or denying the appeal and granting or denying the Vesting Tentative Map 318386 to convert seven existing residential units to condominiums, including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on February 14, 2008, voted 4-1-2 to approve this project.

Ayes: Smiley, Schultz, Ontai, Otsuji
Nays: Griswold
Not present: Naslund
Vacancy: one

The Normal Heights Planning Committee has recommended approval of this project.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Appeal of the Planning Commission's decision to approve a Vesting Tentative Map to convert seven existing apartments to condominiums, including a request to waive the requirement to underground existing overhead utilities, at 4532-34 Felton Street, in the RM-1-2 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights neighborhood of the Mid-City Communities Plan area. The applicant is appealing the Vesting Tentative Map condition requiring that the physical improvements recommended in the Building Conditions Report be completed prior to the recordation of Final Map.

STAFF RECOMMENDATION:

Deny the appeal and approve Vesting Tentative Map No. 318386, including the waiver of the requirement to underground existing overhead utilities, with the current Vesting Tentative Map conditions requiring implementation of the Building Conditions Report and Landscape Concept Plan, prior to recordation of the Final Map.

EXECUTIVE SUMMARY:

The application for a Vesting Tentative Map and waiver from the requirement to underground existing overhead utilities was deemed complete on March 3, 2006. Although at that time the condominium conversion regulations did not require a Building Conditions Report or landscape improvements, this project is subject to the condominium conversion regulations effective June 13, 2006, with the exception of the parking regulations, based on the City Council's specific adoption language for the "new" condominium conversion regulations. At the June 13, 2006, hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, onsite inclusionary housing, noticing and parking. Based on the adopted language and project timing, all of these new regulations apply to this project, with the exception of the parking regulations. Accordingly, this project has been reviewed against the new regulations. In accordance with the current regulations, the applicant provided a Building Conditions Report and Landscape Concept Plan. Both of these documents have been reviewed for conformance with the applicable regulations within the Land Development Code (Chapter 14, Article 4, Division 5), and have been accepted by staff as conforming to the regulations.

The environmental determination for this project was made on March 15, 2006, and the opportunity to appeal that determination expired on April 5, 2006. This project's environmental determination was not appealed.

On February 14, 2008, the Planning Commission approved the project with a condition (Condition No. 22 of the Vesting Tentative Map Resolution, Attachment 6, page 7 of the Planning Commission Report) requiring building and landscape improvements as identified in the submitted Building Conditions Report and Landscape Plan to be completed prior to recordation of the Final Map.

The applicant has appealed the Planning Commission's decision, citing the following: "*The project was deemed complete on March 4, 2006. The owner/applicant requested a "Deferral of Private Building Improvements," the performance of which would be assured by a lien upon the Title/Policy.*" This statement is true (although the project was deemed complete on March 3, 2006). The applicant requested the Planning Commission defer these improvements. However, the Planning Commission discussed this issue at length, both in relation to this project, and in general. Commissioner Griswold stated that "a Building Conditions Report created at one period

of time becomes irrelevant at a future date,” and asked the City Council to consider the Planning Commission’s position and recommendations on this issue. Additionally, the Condominium Conversion regulations were amended by City Council on July 5, 2006, making the new requirements applicable to this project.

In several previous appeals in 2007-2008, the City Council adopted a compromise which allows the condominium converter to execute the required physical improvements prior to the sale of the first unit. City staff does not recommend that approach as it does not provide a mechanism for the City Engineer to verify that the improvements have been completed.

In the latest appeal of the issue regarding the deferring of improvements for condominium conversions, the City Council rejected the compromise and adopted staff’s recommendation (Item 335 on the March 4, 2008 docket).

City staff’s recommendation is to deny the appeal and approve the project with the approved Vesting Tentative Map conditions.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 14, 2008, the Planning Commission voted 4-1 to approve the project as presented by staff (Griswold opposed).

On March 6, 2007, the Normal Heights Planning Committee voted 12-0-1 to recommend approval of the project with specific recommendations.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

4532 Felton Street LLC, Richard W. Mansur, Member (Applicant/Subdivider), Sterling Land Services, Inc. (Surveyor), and the property’s tenants.

Broughton/Anderson/MS

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301, Existing Facilities.

Staff: Michelle Sokolowski – (619) 446-5278

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:23 p.m.;
4:51 p.m. – 4:51 p.m.)

Testimony in opposition by Joy Sunyata.

MOTION BY HUESO TO CONTINUE TO TUESDAY, JULY 8, 2008, AND REFER ITEM TO THE LAND USE AND HOUSING COMMITTEE FOR POLICY DISCUSSION REGARDING CONDOMINIUM CONVERSIONS. Second by Madaffer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-335: 5445 55th Street Tentative Map, Project No. 83624. Appeal of the Planning Commission’s decision approving a Tentative Map including a waiver of the requirement to underground existing overhead utilities to convert twenty-five existing apartments to condominiums at 5445 55th Street in the RM-3-9 Zone and Parking Impact Overlay Zone. (College Community Plan Area. District 7.)

Matter of the appeal by D. Scott Peters, Sterling Land Services, Inc., Surveyor, of the decision by the Planning Commission approving an application for a Tentative Map to convert twenty-five existing residential units to condominiums and a waiver of the requirement to underground existing overhead utilities on a 0.667 acre site at 5445 55th Street in the RM-3-9 Zone and Parking Impact Overlay Zone within the College Area Community Plan Area.

(Continued from the meeting of April 22, 2008, Item No. 335, at the request of Councilmember Madaffer to allow time for the City Attorney's office work with the applicant on the Covenant Agreement.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

PLANNING COMMISSION'S DECISION STANDS;
REFERRED TO LAND USE AND HOUSING
COMMISSION

Adoption of a resolution granting or denying the appeal and granting or denying the Tentative Map No. 263259 including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on February 14, 2008, voted 5-0-1 to approve Resolution for Tentative Map No. 263259 including the request to waive the requirement to underground existing overhead utilities.

Ayes: Schultz, Ontai, Otsuji, Griswold Smiley

Absent: Naslund

Vacant: one

The College Area Community Council has recommended denial of this project.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Appeal of the Planning Commission's decision to approve a Tentative Map including a waiver of the requirement to underground existing overhead utilities to convert twenty-five existing apartments to condominiums at 5445 55th Street in the RM-3-9 Zone and Parking Impact Overlay Zone within the College Area Community Plan area. The applicant is appealing the Tentative Map condition requiring that the physical improvements recommended in the Building Conditions Report be completed prior to the recordation of Final Map.

STAFF RECOMMENDATION:

Deny the appeal and approve Tentative Map No. 263259 including a waiver of the requirement to underground existing overhead utilities, with the current Tentative Map conditions requiring implementation of the Building Conditions Report and Landscape Concept Plan, prior to recordation of the of the Final Map.

EXECUTIVE SUMMARY:

The application for a Tentative Map and waiver from the requirement to underground existing overhead utilities was deemed complete on September 13, 2005. Although at that time the condominium conversion regulations did not require a Building Conditions Report or landscape improvements, this project is subject to the condominium conversion regulations effective June 13, 2006, with the exception of the parking regulations, based on the City Council's specific adoption language for the "new" condominium conversion regulations. At the June 13, 2006, hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, onsite inclusionary housing, noticing and parking.

Based on the adopted language and project timing, all of these new regulations apply to this project, with the exception of the parking regulations. Accordingly, this project has been reviewed against the new regulations. In accordance with the current regulations, the applicant provided a Building Conditions Report and Landscape Concept Plan. Both of these documents have been reviewed for conformance with the applicable regulations within the Land Development Code (Chapter 14, Article 4, Division 5), and have been accepted by staff as conforming to the regulations.

The environmental determination for this project was made on September 20, 2005, and the opportunity to appeal that determination expired on October 11, 2005. This project's environmental determination was not appealed.

On February 14, 2008, the Planning Commission approved the project with a condition (Condition No. 21 of the Tentative Map, Attachment 6, page 7 of the Planning Commission Report) requiring building and landscape improvements as identified in the submitted Building Conditions Report and Landscape Plan to be completed prior to recordation of the Final Map. The appellant is objecting to this condition for the following reason as stated in their appeal with staff responses in italics;

The project was deemed complete on September 13, 2005, and the owner/applicant requested a "Deferral of Private Building Improvements," the performance of which would be assured by a lien upon the Title/Policy. *That statement is true. However, the applicant requested the action after the project was approved on consent. Additionally, the Condominium Conversion regulations were amended by City Council on July 5, 2006, making the new requirements applicable to this project.*

In several previous appeals in 2007-2008, the City Council adopted a compromise which allows the condo converter to execute the required physical improvements prior to the sale of the first unit. City staff does not recommend that approach as it does not provide a mechanism for the City Engineer to verify that the improvements have been completed.

In the latest appeal of this issue on March 4, 2008, the City Council rejected the compromise and adopted staff's recommendation.

City staff's recommendation is to deny the appeal and approve the project with the approved Tentative Map conditions.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 27, 2007, the Planning Commission voted 5-0-2 to approve the project.

On November 9, 2005, the College Area Community Council voted 12-4-1 to recommend denial of the proposed project.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

M.S. Browar Development Corporation, Applicant/Subdivider, Sterling Land Services, Inc., Surveyor and the property's tenants.

Broughton/Anderson/JT

LEGAL DESCRIPTION:

The site is located on a 0.667-acre site at 5445 55th Street in the RM-3-9 Zone within the College Area Community Plan Area, Parking Impact Zone, Council District 7 (Lot 110 and 111 of College View Unit 3, Map No. 3157/APN: 462-220-07-00).

Staff: Jeannette Temple – (619) 557-7908

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301, Existing Facilities.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:19 p.m. – 4:50 p.m.)

Testimony in opposition by Joy Sunyata.

Motion by Hueso to grant the appeal and to grant Tentative Map No. 263259 with conditions. Second by Madaffer. Failed. Yeas-2578. Nays-346. Not Present-1.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

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ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Madaffer at 4:52 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:52 p.m. – 4:52 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego