

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING
OF
TUESDAY, NOVEMBER 25, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye, Madaffer, Hueso.

Clerk: Zumaya.

The City Council meeting of Tuesday, November 25, 2008, has been adjourned, pursuant to the 2008 Legislative Calendar, adopted by Resolution R-303207 on December 3, 2007.

The next regularly scheduled meetings of the City Council are Monday, December 1, 2008 at 2:00 p.m. and Tuesday, December 2, 2008 at 9:00 a.m. The City Council will meet in Closed Session from 9:00 a.m. – 10:00 a.m. (The public portion of Tuesday’s meeting will begin at 10:00 a.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

000003

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR SPECIAL COUNCIL MEETING
OF
MONDAY, NOVEMBER 24, 2008
AT 6:00 P.M.
AT THE BALBOA PARK CLUB (BALLROOM)
2150 PAN AMERICAN ROAD WEST

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 6:08 p.m. Council President Peters recessed the meeting at 7:37 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 7:46 p.m. with Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 9:17 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-not present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

000004

Minutes of the Council of the City of San Diego
for the Special Meeting of Monday, November 24, 2008

Page 2

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-not present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-200: Community Planning Groups Indemnification Ordinance.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance in **either Version A or Version B:**

Version A: (O-2009-22 Cor. Copy 9) NOTED AND FILED

Introduction of an Ordinance declaring by the Council of the City of San Diego as follows:

Except as hereinafter provided, the Office of the City Attorney shall represent and defend, and the City of San Diego shall indemnify, the Community Planners Committee (CPC) established by Council Policy 600-9, and any community planning group established pursuant to Council Policy 600-24, both entities hereafter referred to as "group," and the duly elected or appointed members thereof against any claim or action against such group, member, or former member, if all of the following circumstances exist:

- A. The person is a duly-elected or appointed member of a group recognized and operating in accordance with Council Policy 600-9 or Council Policy 600-24, and the person has attended prior to participating in the activity which gave rise to the claim or action against the group or member, or, in the case of newly-elected or appointed members, will attend within 12 months of being elected or appointed, a community planners' training course conducted by the City of San Diego; and
- B. The alleged act or omission occurred or was authorized during a lawful meeting of the group or subcommittee thereof;
- C. The alleged act or omission was within the reasonable scope of duties of a committee as described in Council Policies 600-5, 600-6, 600-9 and 600-24, and was not in violation of any of those Council Policies, or any provision of the bylaws adopted by the group and approved and/or adopted by the appropriately-designated City officials or City entities;
- D. The member or group has made a request in writing to the City Attorney for defense and indemnification no later than within ten (10) working days of having been served or notified of such legal papers; and
- E. The member or group has performed its duties in good faith and with such care, including reasonable inquiry, as an ordinarily prudent person or persons in a like position would use under similar circumstances.

Non-members, duly-appointed by planning groups as members of subcommittees, may satisfy the requirements for indemnification under this ordinance, provided they satisfy any and all requirements of Section 1 above, with the exception of group membership requirements of Subsection A. The training requirements for non-member subcommittee members shall be enumerated within the Council Policy 600-24 Administrative Guidelines;

Upon the request of a member, former member, or group, the City of San Diego shall provide for the defense of any civil action or proceeding brought against the member or group on account of an alleged act or omission within the scope of the member or group's official duties as described in Council Policies 600-5, 600-6, 600-9, and 600-24. This duty shall apply unless it is determined, after a thorough investigation by the City of the facts surrounding the allegations, transaction or incident, that:

- A. The act or omission by the member or group was not undertaken within the scope of the official duties of recognized groups or their members; or
- B. The member or group intentionally acted or failed to act because of actual fraud, corruption, direct economic interest (as defined in the City's Administrative Guidelines) in the matter before it, or actual malice; or
- C. The defense of the action or proceeding by the City would create a conflict of interest between the City and the member or group; or
- D. The request for defense is determined, after a thorough investigation, to be a request for the defense of a criminal action or proceeding, including a criminal proceeding for the removal of a member or members.

In the event that the Office of the City Attorney determines that a member or a group is not entitled to or should not receive a defense and indemnification under this ordinance, the Office shall promptly advise the City Council and the member or group;

Nothing in this Ordinance shall relieve the City Attorney or any attorney employed with the Office of the City Attorney from his or her obligations under the California Rules of Professional Conduct;

Representation and indemnification shall not be provided by the City of San Diego in any administrative or judicial proceeding initiated by a group or its members against the City of San Diego, its agencies or representatives or any other party or organization nor shall representation and indemnification be

000007

provided to a group or its members against damages to any person or organization which are alleged to have resulted from the initiation of any administrative or judicial proceeding by a group or its members. This Section shall not limit a recognized group's rights, as an interested party, to appeal a land use decision as enumerated in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code, regarding the City's decision-making process;

The provisions of this ordinance apply only to members of groups established and recognized by the City Council pursuant to Council Policy 600-9 and Council Policy 600-24, or duly-appointed members of subcommittees of recognized groups, provided they satisfy the requirements of this ordinance and the Council Policy 600-24 Administrative Guidelines;

In no event shall representation or indemnification be provided against a judgment for punitive damages;

This ordinance does not constitute an admission or a waiver of the position of the City of San Diego that groups and the members thereof are not officers, employees or servants of the City of San Diego.

OR

Version B: (O-2009-22 Cor. Copy 9)

**INTRODUCED, TO BE ADOPTED
TUESDAY, DECEMBER 9, 2008**

Introduction of an Ordinance declaring by the Council of the City of San Diego as follows:

Except as hereinafter provided, the Office of the City Attorney shall represent and defend, and the City of San Diego shall indemnify, the Community Planners Committee (CPC) established by Council Policy 600-9, and any community planning group established pursuant to Council Policy 600-24, both entities hereafter referred to as "group," and the duly elected or appointed members thereof against any claim or action against such group, member, or former member, if all of the following circumstances exist:

000008

- A. The person is a duly-elected or appointed member of a group recognized and operating in accordance with Council Policy 600-9 or Council Policy 600-24; and the person has attended prior to participating in the activity which gave rise to the claim or action against the group or member, or, in the case of newly-elected or appointed members, will attend within 12 months of being elected or appointed, a community planners' training course conducted by the City of San Diego; and
- B. The alleged act or omission occurred or was authorized during a lawful meeting of the group or subcommittee thereof;
- C. The alleged act or omission was within the reasonable scope of duties of a committee as described in Council Policies 600-5, 600-6, 600-9 and 600-24, and was not in violation of any of those Council Policies, or any provision of the bylaws adopted by the group and approved and/or adopted by the appropriately-designated City officials or City entities;
- D. The member or group has made a request in writing to the City Attorney for defense and indemnification no later than ten (10) working days of having been served or notified of such legal papers; and
- E. The member or group has performed its duties in good faith and with such care, including reasonable inquiry, as an ordinarily prudent person or persons in a like position would use under similar circumstances.

Non-members, duly-appointed by planning groups as members of subcommittees, may satisfy the requirements for indemnification under this ordinance, provided they satisfy any and all requirements of Section 1 above, with the exception of group membership requirements of Subsection A. The training requirements for non-member subcommittee members shall be enumerated within the Council Policy 600-24 Administrative Guidelines;

000009

Upon the request of a member, former member, or group, the City of San Diego shall defend and indemnify each and every member and/or group through and until final adjudication in the court, tribunal, or administrative body of proper jurisdiction for any and all claims, actions, litigation and/or lawsuits arising from the member's or group's official capacity and duties, regardless of whether the claim, action, litigation and/or lawsuit may plead and/or allege claims including, but not limited to, actual fraud, corruption, direct economic interest, malice, actual malice, and/or bad faith.

- A. In the event that actual fraud, corruption, direct economic interest, actual malice, and/or bad faith is/are alleged in any pleading and/or document in the claim, action, litigation, and/or lawsuit, the City Council may in writing reserve a right of reimbursement from the member or group for attorney fees and costs directly and exclusively resulting from defending and/or indemnifying the member or group, against whom a jury or bench trial verdict of liability and/or guilt for actual fraud, corruption, direct economic interest, actual malice, and/or bad faith has been made.
- B. In the event that a claim, action, litigation, and/or lawsuit arises from the member's or group's intentional violation of group bylaws or policies and either Council Policy 600-24, the Council Policy's Administrative Guidelines, or other City rules regarding planning groups, the City Council may in writing reserve a right of reimbursement from said member or group for attorney fees and costs directly and exclusively resulting from defending and/or indemnifying the member or group, against whom a jury or bench trial verdict of liability and/or guilt for the intentional violation has been made.
- C. In the event that a member and/or group demonstrates a pattern and practice of refusal to cooperate with the City Attorney in the defense of the claim, action, litigation, and/or lawsuit, the City Attorney may, with written approval from the City Council, withdraw from defending and/or indemnifying the member and/or group.

In the event that the Office of the City Attorney determines that a member or a group is not entitled to or should not receive a defense and indemnification under this ordinance, the Office shall promptly advise the City Council and the member or group;

Nothing in this Ordinance shall relieve the City Attorney or any attorney employed with the Office of the City Attorney from his or her obligations under the California Rules of Professional Conduct;

Representation and indemnification shall not be provided by the City of San Diego in any administrative or judicial proceeding initiated by a group or its members against the City of San Diego, its agencies or representatives or any other party or organization nor shall representation and indemnification be provided to a group or its members against damages to any person or organization which are alleged to have resulted from the initiation of any administrative or judicial proceeding by a group or its members. This Section shall not limit a recognized group's rights, as an interested party, to appeal a land use decision as enumerated in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code, regarding the City's decision-making process;

The provisions of this ordinance apply only to members of groups established and recognized by the City Council pursuant to Council Policy 600-9 and Council Policy 600-24, or duly-appointed members of subcommittees of recognized groups, provided they satisfy the requirements of this ordinance and the Council Policy 600-24 Administrative Guidelines;

In no event shall representation or indemnification be provided against a judgment for punitive damages;

This ordinance does not constitute an admission or a waiver of the position of the City of San Diego that groups and the members thereof are not officers, employees or servants of the City of San Diego.

SUPPORTING INFORMATION:

Since March 2007, the City Attorney's office has worked with the Community Planners Committee (CPC) on a comprehensive update of the ordinance providing defense and indemnity for community planning groups (CPGs).

The present indemnification ordinance, Ordinance No. O-17086, was adopted by the Council on April 28, 1999. The present ordinance provides for defense and indemnification of community planning committees against claims for damages.

After the La Jolla Community Planning Association (LJCPA) was sued in May 2006, many CPGs and CPG leaders, serving as members of the CPC, became concerned that, in their view, Ordinance No. O-17086 did not provide sufficient protections to community members volunteering to serve on CPGs. In response to these concerns, the City Attorney agreed to assign a Deputy City Attorney to work with a subcommittee of the CPC in order to draft a new indemnification ordinance.

After a number of subcommittee meetings and several presentations at CPC, the CPC voted to have two versions of the ordinance forwarded to the City Council for consideration.

Both versions, Version A and Version B, are before the Council in clean as well as strikeout-underline format. The City Attorney recommends the Council adopt Version A. The CPC subcommittee felt strongly that Version B should be presented to Council, as well.

SUPPORTING INFORMATION:

Both versions of the newly-drafted indemnification ordinance substantially tighten up the wording of the recitals in the ordinance, consolidating text and references to Council Policies 600-5, 600-9 and 600-24. The new ordinance clarifies that legal services and representation shall be provided by the City Attorney's Office and that such representation should be provided against "any and all claims." Ordinance No. O-17086 more narrowly provides for indemnification against "damages resulting from a judgment."

The implementation sections of the ordinance are broadened to acknowledge that indemnification can be provided even in the event that newly-elected members have not yet had the opportunity to attend a Community Orientation Workshop (COW). In addition, these sections provide for indemnification of non-members of CPGs who serve on subcommittees, as long as the duly-appointed non-members have satisfied training requirements as enumerated within the Council Policy 600-24 Administrative Guidelines.

A new implementation Section 3 provides for the City to defend CPGs against any civil action or proceeding brought against the group, so long as the alleged act or omission is within the scope of a member's or group's official duties. This section also provides for the City to be excused, after a thorough investigation, from this obligation under certain circumstances.

The CPC subcommittee's recommendation, as presented in Version B of the ordinance, provides for an alternative implementation Section 3 that would require the City to defend and indemnify CPGs "through and until final adjudication" in a court, tribunal or administrative body. Such an obligation would exist, regardless of whether a claim includes allegations of "actual fraud, corruption, direct economic interest, malice, actual malice, and/or bad faith." Version B would provide protection to the City's interests through a written "reservation of rights" for reimbursement of defense costs in the event that a group's or CPG member's actions are found, after final adjudication, to have merited the City's defense and/or indemnification.

Finally, both Versions A and B make clear that, should the City Attorney determine that a member or group is not entitled to or should not receive a defense, the City Attorney's Office is to promptly advise the City Council and the member or group.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Meetings with an Ad Hoc Subcommittee of the Community Planners Committee as well as presentations at several meetings of the full Community Planners Committee.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Duly-elected and/or appointed members of the 43 recognized community planning groups (CPGs) and members of the Citywide Community Planners Committee (CPC).

Heumann/Anderson

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 6:20 p.m. - 6:49 p.m.)

MOTION BY FAULCONER TO INTRODUCE VERSION B AND TO NOTE AND FILE VERSION A. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffernay, Hueso-yea.

ITEM-201: Community Planning Group Bylaws Updates Inconsistent with Council Policy 600-24. (Carmel Valley, City Heights, La Jolla, Linda Vista, Midway-Pacific Highway, Mission Valley, Ocean Beach, Pacific Beach, Rancho Bernardo, Rancho Peñasquitos, San Pasqual Valley, and Serra Mesa Community Areas. Districts 1, 2, 3, 5, 6, and 7.)

(See Report to the City Council No. 08-177.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-712) ADOPTED AS AMENDED AS RESOLUTION R-304448

Approve, deny or approve with modifications the Carmel Valley Community Planning Board Bylaws;

Approve, deny or approve with modifications the City Heights Area Planning Committee bylaws;

Approve, deny or approve with modifications the La Jolla Community Planning Association Bylaws;

Approve, deny or approve with modifications the Linda Vista Community Planning Committee Bylaws;

Approve, deny or approve with modifications the Midway Community Planning Advisory Committee Bylaws;

Approve, deny or approve with modifications the Mission Valley Unified Planning Organization Bylaws;

Approve, deny or approve with modifications the Ocean Beach Planning Board bylaws;

Approve, deny or approve with modifications the Pacific Beach Community Planning Committee Bylaws;

Approve, deny or approve with modifications the Rancho Bernardo Community Planning Board Bylaws;

Approve, deny or approve with modifications the Rancho Peñasquitos Planning Board bylaws;

Approve, deny or approve with modifications the San Pasqual/Lake Hodges Planning Group Bylaws;

Approve, deny or approve with modifications the Serra Mesa Planning Group Bylaws;

Review deviations from Council Policy 600-24 on a case-by-case basis. The staff analysis indicates whether a deviation is potentially erosive to the Council Policy or unique to the circumstances of the particular community planning group;

Deny the two Council Policy deviations that conflict with state law (Ralph M. Brown Act). Staff does not have a recommendation for the twenty-four deviations that do not conflict with state law;

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

STAFF SUPPORTING INFORMATION:

An update to Council Policy 600-24 titled "Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups" was approved by the City Council on May 22, 2008. Approval of the Council Policy update required each community planning group to update its bylaws. Council Policy 600-24 specifies that bylaws will be reviewed and approved by the Offices of the Mayor and City Attorney unless there are inconsistencies with the Council Policy. In such cases, the bylaws will be forwarded to the City Council President who shall docket the matter for Council consideration.

Staff from the City Planning and Community Investment Department and Office of the City Attorney has reviewed the forty-one community planning group bylaws submitted between August 2007 and October 2008. Of these, twenty-nine are consistent with Council Policy 600-24 and have been approved, or are pending approval with minor corrections. Twelve bylaws contain inconsistencies with the Council Policy and require City Council review.

The bylaws were previously scheduled for City Council action, July 22, 2008. The Council directed staff to provide additional information as recommended by the Independent Budget Analyst (reference IBA Report Number 08-82).

The specific information requests from the IBA report are:

1. *Memorandum to the City Council from either City staff or the planning groups outlining the reasons for requesting deviations from Council Policy 600-24.*

A request was made August 1st to each community planning group to provide justification in writing for any proposed deviations to be included in a staff memorandum. CPC was advised of the request at their July and September meetings. Staff received one written response, therefore a comprehensive memorandum cannot be prepared and each community planning group will have to respond separately.

2. *Policy analysis from City staff on the ramifications of approving the deviations.*

The previous staff analysis has been updated to include considerations for the City Council to review in order to understand potential ramifications of each bylaws deviation to the Council Policy. The deviations have been categorized as either unique to the respective community (or planning group), or as erosive to the Council Policy as a whole.

3. *Legal analysis by the City Attorney's Office on the legality of the deviations.*

Deviations that violate the Brown Act violate state law, and approving such deviations would be tantamount to approving a violation of state law. Deviations that do not violate the Brown Act, but deviate from Council Policy 600-24, do not violate any laws. Such deviations are a matter of policy only, and may be approved or denied, or conditionally approved by Council.

Since the Council meeting, staff encouraged the planning groups to reconsider their bylaws deviations, particularly those that also conflict with the Brown Act. As a result, the number of bylaws currently with deviations has been reduced from 19 to 12; the total number of deviations is reduced from 50 to 24; and the number with Brown Act conflicts reduced from 6 to 2. The report includes a copy of Council Policy 600-24 and a summary of each bylaw deviation from the Council Policy.

FISCAL CONSIDERATIONS:

None with this action; ongoing costs associated with providing administrative assistance to all recognized community planning groups are funded as part of the CPCI Department work program.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

At the July 22, 2008, meeting, the City Council returned to staff for additional information as recommended by the Independent Budget Analyst (reference IBA Report Number 08-82).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Staff has worked with individual planning groups during their bylaws update process.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders are existing and prospective community planning group members whose bylaws contain inconsistencies with Council Policy 600-24 and require City Council review. Approval of certain deviations could set precedent for all community planning groups on standard policy (such as compliance with the Brown Act) and would impact the community planning program as a whole.

Wright/Anderson

Staff: Bernie Turgeon - (619) 533-6575

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:50 p.m. - 7:36 p.m.)

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATIONS WITH THE FOLLOWING AMENDMENTS: APPROVE THE DEVIATIONS SUGGESTED FOR LA JOLLA ADDING A REQUIREMENT THAT SPECIAL MEETINGS ONLY BE CALLED BY THE CHAIR OR A MAJORITY OF THE TRUSTEES; APPROVE ONLY DEVIATION NUMBER 1 IN CITY HEIGHTS WHICH HAS TO DO WITH THE DEVIATION FROM A SIMPLE MAJORITY TO A SUPER MAJORITY, REFER THE DEVIATIONS ON TIMING OF VACANCIES, CANDIDATE ELIGIBILITY, ARTICLE 6, SECTION 2, BACK TO THE NEW CITY ATTORNEY FOR FURTHER STUDY. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea*, Hueso-yea.

*Nay on the portion related to super majority in City Heights.

ITEM-202: Mills Act Program Reforms and Cost Recovery Fees. (Communities with structures over 45 years old. Citywide.)

(See Report to the City Council No. 08-176.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-681 Cor. Copy)

ADOPTED AS AMENDED AS
RESOLUTION R-304449

Approving the amendments to Council Policy 700-46 titled "Mills Act Agreements for Preservation of Historic Property," with the following amendments listed below:

- Add a fiscal threshold of \$100,000 new tax revenue reduction to general fund on an annual basis;
- Authorize exceeding the threshold as part of the annual budget process, based on findings made by the City Council that the fiscal health of the City is such that additional reduction in tax revenue can be supported;
- Require a formal application process with a deadline of March 31st of each year for properties designated by December 31st of previous year;
- Require the property owner to demonstrate substantial investment of the tax savings into the designated historic property through a 10-year tailored work plan which may include costs of rehabilitation or restoration of the historic property necessary to achieve historic designation; and
- Establish an inspection schedule for monitoring of Mills Act Program properties prior to a new agreement and every 5 years thereafter prior to the renewal date to assure compliance with contract requirements.

Instructing the City Clerk to add the aforesaid to the Council Policy Manual.

Instructing the City Clerk to add the aforesaid to the Council Policy Manual.

Subitem-B: (R-2009-682 Cor. Copy)

(R-2009-682 Rev.) ADOPTED AS AMENDED AS RESOLUTION R-304450

Approving the Fee Schedule for Individual Historical Resource Nomination, Mills Act Program Agreement, Mills Act Program Monitoring, and Mills Act Program Enforcement;

Authorizing the City Manager to adjust the Fee Schedule from time to time to recover increases in the administrative costs of the program.

STAFF SUPPORTING INFORMATION:

The current Mills Act Program was adopted by the City Council in July 1995 (Council Policy 700-46) as way to provide an incentive to historic property owners and bring historically significant properties under the City's authority for preservation, at time when there were no historical resources regulations. The current program is very informal with all designated historic properties located outside Redevelopment Areas eligible for Mills Act tax reduction. Specific requirements apply within Redevelopment Areas.

Only a limited number of agreements include additional preservation or rehabilitation requirements and there is no requirement that the tax savings realized through this program be invested in the historic property.

There is no formal inspection schedule or monitoring of agreements for compliance with the contract requirements. The Mills Act Program has not been updated or modified since its initial adoption and there is a desire on the part of the City to improve accountability of the overall program and to understand and manage the fiscal impacts of the program. Staff recommends adopting several reform measures to the Mills Act Program that would allow the fiscal impacts to be managed, improve the accountability of the Program and provide cost recovery fees for the processing of designation requests, a Mills Act Program Agreement, monitoring program, and enforcement. Staff recommends the reforms and fees be applied to pending applications and that the fee be required prior to work on each aspect of the program. Additionally, a Mills Act Agreement monitoring program would be established to ensure compliance with individual contracts and the state enabling legislation for the benefit of the public.

FISCAL CONSIDERATIONS:

Without enacting the requested fees, the General Fund is paying for optional services sought by individual property owners. The requested fees will recover the staff costs of this function.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In December 2003, Planning Department staff asked the Land Use and Housing (LU&H) Committee to support a moratorium on processing voluntary nominations while staff prepared a fee for the service. While the committee did not approve a moratorium, it did authorize staff to develop a fee proposal. During review of the Planning Department's Fiscal Year 2006 budget, the City Council directed staff to prepare a fee proposal to recover costs associated with nominations of historical resources. On June 21, 2006, the LU&H Committee forwarded the issue of fees for nominations of historical resources and Mills Act Program Agreements to the full City Council with direction for staff to develop options related to the timing of a fee and a way to accommodate those property owners who cannot afford to pay the fee.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Staff met with preservation stakeholders several times between 2004 and 2006 to discuss the fee proposal and need for more formal inspections of Mills Act properties. Historic consultants and community representatives expressed concern that any fee, other than a nominal one, would deter property owners from coming forward for historical designation. Staff presented information comparing the City's overall Mills Act program with other jurisdictions' programs and the potential for changes to the HRB Policy Subcommittee during 2006 and 2007, with a draft proposal for changes presented in January 2007. There was much public interest and concern about the proposed changes expressed at this meeting and to staff and the Mayor's Office following the meeting.

The HRB held two workshops, in April and June 2008 and a hearing in July 2008 on the issue of Mills Act reforms. Every owner of a designated historic property or of a nominated property was notified by mail of these workshops. A very significant number of people attended the workshops and hearing. Many individuals expressed opposition to some or all of the changes being proposed and there was particularly strong opposition to any change in the program that would limit the number of new contracts or add eligibility requirements for new contracts.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders are owners of historical properties who are seeking designation and Mills Act agreements who will be subject to revised policy and regulations and will be charged new or revised fees.

Anderson

Staff: Cathy Winterrowd - (619) 235-5217

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 7:46 p.m. - 9:16 p.m.)

MOTION BY MADAFFER TO ADOPT THE INDEPENDENT BUDGET ANALYST'S RECOMMENDATION BUT REMOVE THE WORD "SUBSTANTIAL," AND BE SURE TO INCLUDE THE ECONOMIC HARDSHIP WAIVER; CONTINUE THE ISSUES OF THE ANNUAL THRESHOLD AND PROJECT IN THE PIPELINE TO DECEMBER 2, 2008, TO ALLOW FOR MORE DISCUSSION. DIRECT THE MAYOR'S STAFF TO PROVIDE THE NUMBER OF PROJECTS IN THE PIPELINE, HOW LONG THE PROJECTS HAVE BEEN IN THE PIPELINE, AND ADDRESS THE ISSUE OF WARNING OF POSSIBLE FEE INCREASES TO THOSE IN THE PIPELINE. DIRECT THE IBA AND/OR MAYOR TO PROVIDE ANY ADDITIONAL INFORMATION BEFORE DECEMBER 2, 2008. ALSO, REFER TO LAND USE AND HOUSING COMMITTEE THE DISCUSSION OF THE POSSIBILITY OF ADDITIONAL FUNDING FROM REDEVELOPMENT, HOUSING COMMISSION OR CDBG TO BE USED TO CREATE AN ADDITIONAL INCENTIVE PROGRAM FOR APPLICANTS TO PARTICIPATE IN HISTORIC RESTORATION PROGRAMS. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-203: Reconsideration of City Council Resolution regarding As-Needed Agreement for Community Outreach Services with Katz and Associates vetoed by the Mayor on October 30, 2008.

(See Veto Memorandum from Mayor Sanders dated October 30, 2008.)

Pursuant to San Diego Charter Section 285, the Council shall reconsider Resolution R-2009-251, passed by City Council with a Unanimous vote on October 14, 2008, Item 102, which was vetoed by the Mayor on October 30, 2008. If after such reconsideration, at least five members of the Council vote in favor of passage, the resolution shall become effective notwithstanding the Mayor's veto.

(Continued from the meeting of November 18, 2008, Item 331, at the request of Councilmember Hueso, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-251) RECONSIDERED/VETO STANDS

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Katz and Associates, for As-Needed Consultant Services related to community outreach services for the Engineering and Capital Projects Department in an amount not to exceed \$500,000, under the terms and conditions set forth in the Memorandum of Agreement (MOA);

Authorizing the expenditure of an amount not to exceed \$1,000 from Capital Outlay Fund 302453, CIP-37-064.0, Annual Allocation - Americans with Disability Act (ADA) Improvements for services to Bird Rock Elementary School ADA Upgrades, solely and exclusively, for the purpose of providing funds for the above MOA and related costs, provided that the City 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 budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15060(c)(3) and 15378(b)(5).

STAFF SUPPORTING INFORMATION:

The City currently does not have the capacity to perform community outreach services for various projects. A qualified and licensed consultant is being retained to provide this service. The City advertised the Contract and issued the Request for Proposal for As-Needed Community Outreach Services Agreement on August 20, 2007 in the San Diego Daily Transcript and in the City's website for bid and contract opportunities. Six (6) firms were short-listed to be interviewed by the interview/selection panel based on their proposal and evaluation criteria in the request for proposal.

On January 28-30, 2008, the short-listed firms were interviewed by the interview/selection panel. Katz and Associates was selected as one of two firms highly qualified following a competitive selection and procurement process completed in accordance with the policies, procedures and guidelines in the City Council Policy 300-7, Consultant Services Selection, and the City's Administrative Regulation 25.70 on hiring of consultants other than Architects and Engineers. The City will utilize the expertise of Katz and Associates in construction relations, media relations, community outreach, informational materials, in a timely and efficient manner. Katz and Associates has the expertise, experience and personnel necessary to provide the professional services on an as-needed, hourly fee basis. The City will pay Katz and Associates for performance of all Professional Services rendered in accordance with the Agreement, in an amount not to exceed \$500,000. Katz and Associates have no Subconsultants.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation: \$000,000 Certified Firms (00.0%)
\$000,000 Other Firms (00.00%)
Other: Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan, and adherence to the Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

The City will pay Katz and Associates for performance of all professional services rendered in accordance with this Agreement, in an amount not to exceed \$500,000. The City agrees to issue at least one Task Order with a minimum aggregate value of \$1,000 to Katz and Associates.

Funding for the minimum guarantee amount of \$1,000 will come from CIP-37-064.0, Annual Allocation - Americans with Disability Act (ADA) Improvements, Fund 302453, Capital Outlay, for the purpose of executing this Agreement. Future tasks will be funded from various City Department's budget.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

On October 14, 2008, City Council passed Resolution R-2009-251, Item 102, with a Unanimous vote. The item was vetoed by the Mayor on October 30, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Katz and Associates is being retained to provide these services for the Engineering and Capital Projects Department.

000023

Minutes of the Council of the City of San Diego
for the Special Meeting of Monday, November 24, 2008

Page 21

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Upon approval of the Agreement, Katz and Associates could receive up to \$500,000.

Boekamp/Jarrell

Aud. Cert. 2900150.

Staff: James Nagelvoort - (619) 533-5110
Pedro De Lara, Jr. - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:09 p.m. - 6:18 p.m.)

MOTION BY FAULCONER NOT TO OVERRIDE THE MAYOR'S VETO. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 9:17 a.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 9:17 p.m. - 9:17 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

000025

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, NOVEMBER 18, 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. The meeting was recessed by Council President Peters at 12:00 p.m. for the noon recess and thereafter to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:08 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:38 p.m. to convene the Redevelopment Agency and the Housing Authority, thereafter. Council President Peters reconvened the regular meeting at 3:49 p.m. with all Council Members present. Council President Peters recessed the meeting at 5:03 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:12 p.m. with Council Member Young and Council Member Maienschein not present. Council President Peters recessed the meeting at 7:13 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 7:24 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 8:22 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 8:30 p.m. with Council Member Maienschein and Council Member Frye not present. The meeting was adjourned by Council President Peters at 8:48 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

000026

Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, November 18, 2008

Page 2

(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: 10:38 a.m. – 10:40 a.m.)

000027

**Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, November 18, 2008**

Page 3

PUBLIC COMMENT-2:

Steve Bruce commented on suffering children.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:42 a.m.)

PUBLIC COMMENT-3:

Sunshine Horton thanked Council Members for a job well done.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:42 a.m. - 10:44 a.m.)

PUBLIC COMMENT-4:

Jarivs Ross commented on his concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:47 a.m.)

PUBLIC COMMENT-5:

Hassie-Pip Negus Negrave commented on a victim of conspiracy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. - 10:50 a.m.)

000028

Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, November 18, 2008

Page 4

PUBLIC COMMENT-6:

Brina-Rae Schuchman commented on water.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. - 10:53 a.m.)

PUBLIC COMMENT-7:

Phil Hart commented on Council appointments.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. - 10:56 a.m.)

PUBLIC COMMENT-8:

James Justus commented on the homeless.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-9:

Jose Lopez and Mercedes Shetter commented on Fox Canyon.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-10:

Joy Sunyata commented on Centre City Development Corporation (CCDC).

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-11:

Elinor Rector commented on the Bible.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-12:

Cricket Bradburn commented on her concerns.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-13:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

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

000030

Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, November 18, 2008

Page 6

PUBLIC COMMENT-14:

J. Nathaniel Howard commented on the Ballpark zone.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:13 a.m. - 11:16 a.m.)

PUBLIC COMMENT-15:

David Ross commented on the displaced veterans in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:16 a.m. - 11:19 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council President Peters welcomed delegation from Al Ain Municipality in the United Arab Emireates.

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:

- 09/15/2008
- 09/16/2008
- 09/22/2008
- 09/23/2008
- 09/29/2008 - Adjourned
- 09/30/2008 - Adjourned
- 10/06/2008
- 10/07/2008

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:03 a.m. – 10:04 a.m.)

MOTION BY ATKINS TO APPROVE. 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-31: Gloria Tran Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-369) ADOPTED AS RESOLUTION R-304366

Proclaiming November 18, 2008, as "Gloria Tran Day" in the City of San Diego in recognition of the many community services she has provided to the citizens of San Diego.

000032

Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, November 18, 2008.

Page 8

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:04 a.m. – 10:09 a.m.)

MOTION BY MAIENSCHIEIN 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-32: Gene and Wanda Elmore Day.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-599) ADOPTED AS RESOLUTION R-304367

Declaring that the Council of the City of San Diego, for and on behalf of the people of San Diego, is honored to proclaim November 18, 2008, to be "Gene and Wanda Elmore Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:04 a.m. – 10:14 a.m.)

MOTION BY MADAFFER 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-50: Amending the San Diego Municipal Code relating to the Living Wage Ordinance and Contractor Standards.

(See Independent Budget Analyst Report No. 08-110; Reports from City Attorney dated 10/16/2008, 10/16/2008, and 7/8/2008; 7/3/2008 PowerPoint and 7/3/2008 Summary of Living Wage Ordinance.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinances, which were introduced as amended on October 20, 2008, Item 150. (Council voted 8-0):

Subitem-A: (O-2009-49 Rev.) ADOPTED AS ORDINANCE O-19808
(New Series)

Amending Chapter 2, Article 2, Division 32 of the City of San Diego Municipal Code by amending Section 22.3224 relating to Contractor Standards. These amendments are designed to enhance the effectiveness of the City's various ordinances related to contracting by establishing procedures for public determinations of non-responsibility and other mechanisms for ensuring contractor compliance with all local, state and federal laws.

Subitem-B: (O-2009-50a Rev.) ADOPTED AS ORDINANCE O-19809
(New Series)

Amending Chapter 2, Article 2, Division 42 of the San Diego Municipal Code by amending Sections 22.4205, 22.4215, 22.4225, 22.4230, and 22.4235, all relating to the Living Wage Ordinance. The City's Living Wage Ordinance has been in force since 2005, and the Council has studied its implementation. The Budget and Finance Committee has held multiple hearings on Living Wage Ordinance implementation issues, and has forwarded proposed revisions for consideration of the full Council. These amendments are designed to enhance enforcement and clarify provisions of the Living Wage Ordinance, in order to advance the purposes it was intended to serve. This Ordinance would generally remove all service workers in professional fields from the professional services exemption.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

On 7/9/2008, Budget voted 4 to 0 to forward the City Attorney's Report with recommendations A, B, and C to the full City Council for further discussion. Also, direct the City Attorney's Office to begin analysis on Redevelopment Agency impacts and report back to the Budget and Finance Committee at a later date.

In addition, request the City Attorney's Office to provide a full analysis and draft an Ordinance that incorporates Center on Policy Initiative's proposal regarding enforcement of the Living

Wage Ordinance and Contractor's Standards as part of the San Diego Municipal Code and to specifically include:

1. A comprehensive analysis of economic impact;
2. The role of the Internal Auditor;
3. Input from stakeholders and contractors that currently do business with the City;
4. An analysis and impact of including the Civic Theatre;
5. An analysis and impact of including Emergency Medical Services; and
6. An analysis from the Independent Budget Analyst and Mayor's Office.

(Councilmembers Faulconer, Atkins, Frye, and Madaffer voted yea. Councilmember Hueso not present.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-51: Extension of Cooperative Agreement with CalTrans for Improvements to State Route 163/Clairemont Mesa Boulevard Interchange. (Kearny Mesa Community Area. District 6.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-57) INTRODUCED, TO BE ADOPTED ON TUESDAY,
DECEMBER 2, 2008

Introduction of an Ordinance authorizing the Mayor to execute an Amendment to the Cooperative Agreement with CalTrans for the design of improvements to the State Route I-163/Clairemont Mesa Boulevard Interchange, extending the termination of the Agreement by three years to December 31, 2011, under the terms and conditions set forth in the Agreement;

Declaring that this activity is covered under the EIR for the New Century Center, LDR No. 96-0165, SCH No. 96031091. This activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental document adequately covered this activity as part of the previously approved project, this activity is not a separate project for purposes of California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15060(c)(3).

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

STAFF SUPPORTING INFORMATION:

On June 27, 2005, the City and CalTrans entered into an Agreement with CalTrans for improvements to the State Route 163/Clairemont Mesa Boulevard Interchange. These improvements included widening the overpass and reconstructing the ramps on the east side of the interchange. The termination date for this Agreement is December 31, 2008.

It has been determined that the plant establishment period for the project's landscaping will not be completed prior to the termination date on the Agreement. CalTrans is requesting that the termination date for the Agreement be extended to December 31, 2011, a 3-year extension. Because this extension will extend the Agreement beyond five years duration, Council approval via ordinance is required.

FISCAL CONSIDERATIONS:

None with this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Council approved the Cooperative Agreement to fund the interchange improvements on June 27, 2005.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

CalTrans is the key stakeholder in this action.

Boekamp/Jarrell

Staff: Deborah Van Wanseele - (619) 533-3012
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-52: Centre City Development Corporation Performance Audit.

(See Centre City Development Corporation Report No. CCDC-08-30.)

CITY AUDITOR’S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-62) INTRODUCED WITH DIRECTION, TO BE ADOPTED
ON TUESDAY, DECEMBER 2, 2008

Introduction of an Ordinance authorizing the Mayor to enter into an agreement with Sjoberg Evashenk Consulting, Inc., in an amount not to exceed \$344,000 to conduct a performance audit of CCDC under the terms of the Sjoberg Evashenk proposal received by the City on September 3, 2008 and on file with the City Clerk’s Office;

Authorizing the Redevelopment Agency to receive up to \$344,000 from CCDC for the purpose of funding the above-referenced agreement;

Authorizing the City Comptroller to appropriate and expend up to \$344,000, in Fund 102691, RDA City Contracts, for the purpose of funding the above-reference agreement.

SUPPORTING INFORMATION:

On July 25, 2008, Mayor Jerry Sanders and Councilmember Kevin Faulconer called for performance audits of City agencies, including the Centre City Development Corporation (CCDC). On July 31, 2008, the Audit Committee directed the City Auditor to prepare a Request for Proposal (RFP) to hire a firm to conduct a Performance Audit of CCDC. On August 5, 2008,

the Office of the City Auditor prepared the RFP, and the Purchasing and Contracting Department reviewed and issued the RFP on August 14, 2008. On September 26, 2008, the Technical Evaluation Committee finalized their review of the proposals received, and selected Sjoberg Evashenk Consulting, Inc., to conduct the CCDC performance audit at an amount not to exceed \$344,000.

Sjoberg Evashenk Consulting, Inc., is a firm that was organized in January 2000 by the former California State Auditor and Chief Deputy State Auditor, and is a national full service consulting company with a team of highly experienced and credentialed staff. In their nine years of operations, they have conducted more than 100 engagements covering a broad array of topics and levels of government.

The Performance Audit will cover a three-year period from July 1, 2005 through June 30, 2008, to evaluate the efficiency and effectiveness of the organization and to determine if the organization's goals are being achieved. In addition, the Performance Audit will review and evaluate the development process; budgetary practices and procedures; procurement practices; review of accounting for the reporting of compensation; Corporation expenditures for Fiscal Year 2008 including equipment and capital assets; review of information provided to the Corporation Board members; internal controls; and potential conflict of interest regarding expenses paid by the Corporation. It is anticipated that the audit will take approximately four months to complete subsequent to a fully executed contract. Two months thereafter, written reports and PowerPoint presentations will be provided including any findings, conclusions and recommendations of the audit.

FISCAL CONSIDERATIONS:

The total cost of this audit is not to exceed \$344,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On July 31, 2008, the Audit Committee directed the City Auditor to prepare a RFP to hire a firm to conduct a performance audit of CCDC. On September 24, 2008, the CCDC Board approved a recommendation for the Redevelopment Agency to approve an amendment to the Fiscal Year 2009 Corporate Budget increasing the line item for Other Consultants by \$600,000 for the Performance Audit. On October 7, 2008, the Redevelopment Agency approved the Corporate Budget Amendment for the Audit.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Luna/Goldstone

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

MOTION BY FRYE TO INTRODUCE THE ORDINANCE WITH THE UNDERSTANDING THAT THE BUDGET ANALYST WILL BE INVOLVED
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-53: Extension of Cooperative Agreement with CalTrans for Improvements to I-805/La Jolla Village Interchange. (University Community Area. District 1.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-56) INTRODUCED, TO BE ADOPTED ON TUESDAY,
DECEMBER 2, 2008

Introduction of an Ordinance authorizing the Mayor to execute an Amendment to the Cooperative Agreement with CalTrans for the design of improvements to the I-805/La Jolla Village Drive Interchange, extending the termination of the Agreement by three years to December 31, 2011, under the terms and conditions set forth in the Agreement;

Declaring that the City Council has reviewed and considered an EIR/EIS, DEP File No. 91-0397, dated May 6, 1998 and adopted by Resolution No. R-290810 on October 5, 1998, covering this activity. This activity is adequately addressed in the environmental documents and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental document adequately covered this activity as part of the previously approved project, this activity is not a separate project for purposes of California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15060(c)(3).

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

STAFF SUPPORTING INFORMATION:

On October 22, 2001, the City and CalTrans entered into an Agreement with CalTrans for improvements to the Interstate 805/La Jolla Village Drive/Miramar Road Interchange. These improvements included widening the overpass and reconstructing the ramps on the east side of the interchange. The termination date for this Agreement is December 31, 2008.

Because of design changes, the project is now scheduled to begin construction in 2009. CalTrans is requesting that the termination date for the Agreement be extended to reflect this schedule change. The termination date for the Agreement would be extended to December 31, 2011, a 3-year extension.

Because this extension will extend the Agreement beyond five years' duration, Council approval via ordinance is required.

FISCAL CONSIDERATIONS: None with this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Council approved the Cooperative Agreement to fund the improvements on October 22, 2001.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

CalTrans is the key stakeholder in this action.

Boekamp/Jarrell

Staff: Deborah Van Wanseele - (619) 533-3012
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE.

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

- * ITEM-54: Second Amendment to the Consultant Agreement with Kimley-Horn, Inc., for Genesee Avenue/Interstate-5 Overcrossing Project. (University City Community Area. District 1.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-63) INTRODUCED, TO BE ADOPTED ON TUESDAY,
DECEMBER 2, 2008

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City, an Agreement (Amendment #2) with Kimley-Horn, Inc., for preliminary engineering services for the Genesee Avenue/Interstate-5 Overcrossing Project, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Authorizing the expenditure of an amount not to exceed \$1,590,900 from Fund 79001, North University City FBA, CIP-52-372.0, Genesee Avenue/Interstate-5 Overcrossing, for the purpose of providing funds for the above referenced Project;

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

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

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

STAFF SUPPORTING INFORMATION:

The existing Contract includes preliminary engineering services for the Genesee Avenue Interstate-5 Overcrossing Project, as originally described in the Project Study Report (PSR) completed in 2004. This includes the completion of the Project Report and Environmental Document in accordance with terms of the co-operative Agreement with CalTrans and the Federal Highways Administration (FHWA). During the preparation of the environmental document and project report, based on geotechnical investigational studies, additional

preliminary engineering design work was required to address necessary remedial earthwork and any potential environmental impacts of that work.

This amendment provides for the additional preliminary engineering design and environmental services required to include the work as part of the Project report and environmental document. Additional elements have been included in the scope at the request of CalTrans, including an additional on-ramp lane from Sorrento Valley and an auxiliary lane on the freeway to Genesee to alleviate congestion. Because this action extends the Agreement beyond the five-year duration, Council approval by Ordinance is required.

FISCAL CONSIDERATIONS:

Funding for this action \$1,590,900 is currently available within the existing CIP budget. \$24.3 million has been programmed from the North University City Facilities Benefit Assessment fund to the CIP and grant funds in the amount of \$2.5 million have been programmed by the State.

PREVIOUS COUNCIL ACTIONS:

The original contract with Kimley-Horn was executed in February 2004, (RR-298854-1). Amendment #1 was executed by Council in January 2007, (RR-302321) for additional preliminary engineering studies requested by CalTrans.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Outreach was conducted as part of the Project Study Report in 2004. Monthly project design team meetings have been held including UCSD and Scripps Hospital, CalTrans and SANDAG representatives. Milestone updates have been provided with the North University City Planning Group.

KEY STAKEHOLDERS:

University of California, San Diego; Scripps Hospital La Jolla; North University Planning Group

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego - NUC FBA
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation:	\$379,747 Certified Firms (6.67%) \$575,173 Other Firms (10.1%)
Other:	Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

Boekamp/Jarrell

Aud. Cert. 2900204.

Staff: Frank Gaines - (619) 533-4607
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-55: Extension of Cooperative Agreement with CalTrans for Improvements to
I-5/Sorrento Valley Road Interchange. (Torrey Pines Community Area.
District 1.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-58) INTRODUCED, TO BE ADOPTED ON TUESDAY,
DECEMBER 2, 2008

Introduction of an Ordinance authorizing the Mayor to execute an Amendment to
a Cooperative Agreement with CalTrans for the preparation of an Environmental
Document and Project Report, and for preliminary engineering of improvements
to the I-5/Sorrento Valley Road Interchange, extending the termination of the
Agreement by three years to December 31, 2011, under the terms and conditions
set forth in the Agreement;

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

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

STAFF SUPPORTING INFORMATION:

On January 19, 2007, the City and CalTrans entered into an Agreement with CalTrans for improvements to the Interstate 5/Sorrento Valley Road Interchange. This agreement allocated \$1.5 million to the City for the preparation of an Environmental Document and a Project Report, and for preliminary engineering on the project. The termination date for this Agreement is December 31, 2008.

The project has been rescoped and will require a joint NEPA/CEQA environmental document. It has been determined that because of the rescoping, the environmental document will not be completed prior to the termination date on the Agreement. CalTrans is requesting that the termination date for the Agreement be extended to December 31, 2011, a 3-year extension.

FISCAL CONSIDERATIONS: None with this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Council approved the Cooperative Agreement to fund the preparation of the Environmental Document and the Project Report, and to perform preliminary engineering on January 19, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

CalTrans is the key stakeholder in this action.

Boekamp/Jarrell

Staff: Deborah Van Wanseele - (619) 533-3012
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE.

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

- * ITEM-56: Amended Cooperative Agreement with CalTrans for Genesee Avenue/Interstate 5 Overcrossing. (University Community Area. District 1.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-66) INTRODUCED, TO BE ADOPTED ON TUESDAY,
DECEMBER 2, 2008

Introduction of an Ordinance authorizing the Mayor, or his representative, to execute for and on behalf of the City, an Amended Cooperative Agreement with Caltrans for the preparation of an environmental document for the Genesee Avenue/Interstate 5 Overcrossing (CIP-52-372.0), under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

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

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

STAFF SUPPORTING INFORMATION:

On February 9, 2004, Council authorized the City to enter into a Cooperative Agreement with CalTrans for improvements to the Genesee Avenue/Interstate 5 interchange. In that agreement, the City agreed to provide preliminary engineering and the preparation of an environmental document for the project.

It has subsequently been determined that because this project is on the interstate highway system, CalTrans is required to be the Lead Agency and for the City to be the Responsible Agency for the environmental document. An amended Cooperative Agreement to memorialize this change in responsibilities is required. Because the agreement will extend beyond the five-year limit, an ordinance is required.

FISCAL CONSIDERATIONS:

There is no change to the costs associated with the preparation of the environmental document.

PREVIOUS COUNCIL ACTIONS:

The original Cooperative Agreement with CalTrans was approved by Council on February 9, 2004.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Outreach was conducted as part of the Project Study Report in 2004. Monthly project design team meetings have been held including UCSD and Scripps Hospital, CalTrans and SANDAG representatives. Milestone updates have been provided with the North University City Planning Group.

STAKEHOLDERS:

University of California, San Diego; Scripps Hospital La Jolla.

Boekamp/Jarrell

Staff: Frank Gaines - (619) 533-4607
Ryan Kohut – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-100: Inviting Bids for the 60th Street Accelerated Sewer Project. (College Community Area. District 7.)

(See Engineering and Capital Projects Department’s 10/15/2008, Executive Summary Sheet.)

TODAY’S ACTION IS:

Adopt the following resolution:

(R-2009-477) ADOPTED AS RESOLUTION R-304368

Approving the plans and specifications for the construction of the 60th Street Accelerated Sewer (Project) as advertised by the Purchasing and Contracting Department, on Work Order No. 178401;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to execute a construction contract with the lowest responsible and reliable bidder, provided that the City 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 Comptroller to transfer an amount not to exceed \$850,000 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacements to Sewer Fund 41506, CIP-46-206.0, Annual Allocation-Accelerated Projects;

Authorizing the expenditure of an amount not to exceed \$1,986,735.24 from Sewer Fund 41506, CIP-46-206.0, Annual Allocation-Accelerated Projects, solely for the purpose of construction, contingency and related project costs of the Project, provided that the City Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of \$328,880.29 in property related cost from Sewer Fund 41506, CIP-46-206.0, Annual Allocation-Accelerated Projects;

Stating for the record that the information contained in the Mitigated Negative Declaration No. 6883, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guidelines Section 15162 would warrant any additional environmental review in connection with approval of the Project;

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

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above Project. (BID-K094318)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/15/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The 60th Street Accelerated Sewer Project is located at the bottom of a stream bed in 60th Street Canyon. It is part of the City of San Diego's ongoing program to rehabilitate, upgrade and/or relocate sewers that are in canyons. Due to severe erosion the pipe has been exposed and emergency repairs were completed by City crews. The redirection of flow study and cost benefit analysis completed for this project concluded that it is not feasible to move the pipe out of the canyon. Construction on this project will consist of installing approximately 1,400 linear feet of new 8-inch sewer main, which will solve the erosion problem by relocating the pipe out of the stream bed and placing it in a new alignment higher up the slope that will also enhance maintenance of the pipe by building an 8-foot access path.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego - Prevailing wages does not apply to this contract.

Goals: 10% Mandatory Subcontractor Participation Goal, 3% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 6% Advisory Participation Goal Other Business Enterprise (OBE).

Other: 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:

The total estimated cost of this project is \$1,986,735.24. \$1,986,735.24 will be available in CIP-46-206.0, Annual Allocation - Accelerated Projects, Fund 41506, Sewer, of which \$850,000 will be transferred from CIP-44-001.0, Annual Allocation- Sewer Main Replacements, Fund

41506, Sewer for this purpose. The project cost may be reimbursed approximately 80% by current and future debt financing. No future funding is anticipated for this project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

The Committee on Natural Resources and Culture on October 15, 2008, consent motion by Council President Peters, second by Councilmember Faulconer. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On 10/2/2003, the project was presented to the College Community Planning subcommittee who voted in favor of the project on 10/9/2003. A letter to update the community on the status of the Project was sent on 7/30/2008. 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 AND PROJECTED IMPACTS (if applicable):

Residents in this area will encounter minor inconvenience during construction. After completion, residents will experience improved reliability of the sewer system.

Boekamp/Jarrell

Aud. Cert. 2900284.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-101: Two actions related to Inviting Bids for Sewer Group 703 Project. (Kensington-Talmadge and City Heights Community Areas. Districts 3 and 4.)

(See Engineering and Capital Projects Department's 10/8/2008, Executive Summary Sheet.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2009-467) ADOPTED AS RESOLUTION R-304369

Approving the plans and specifications for the construction of Sewer Group 703 (Project), as advertised by the Purchasing and Contracting Department, on Work Order No. 175391;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to execute a construction contract with the lowest responsible and reliable bidder, provided that the City 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 \$4,434,422.50 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacements, solely for construction, contingency and Project related costs, provided that the City Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K098491C)

Subitem-B: (R-2009-469) ADOPTED AS RESOLUTION R-304370

Declaring that the Revised Mitigated Negative Declaration, Project No. 3740 (LDR No. 42-0341), dated June 18, 2008, for Sewer Group 703 (the Project) on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.);

Declaring that the Revised Mitigated Negative Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Project;

Finding that revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore approving Project 3740 (LDR No. 42-0341), Revised Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this body in order to mitigate or avoid significant effects on the environment, pursuant to California Public Resources Code section 21081.6;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/15/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

Sewer Group 703 is part of the City of San Diego's Sewer Main Replacement Program as mandated by the Environmental Protection Agency (EPA). It includes the replacement of approximately 9,652 linear feet of 6-inch, 8-inch, and 10-inch sewer mains with 8-inch and 10-inch mains and the associated manholes. The designed slope and adjusted alignment of the new system will provide more sufficient flow and access for regular maintenance. Generally, the project impacts residential streets except in the vicinity of the intersection of El Cajon Boulevard and 52nd Street which consists of privately owned businesses at the four (4) corners. The existing mains were installed in 1925 and they are no longer meeting capacity. The replacement of these sewer mains will provide the community with a safe and reliable wastewater collection system that complies with the EPA.

EQUAL OPPORTUNITY CONTRACTING:

The City of San Diego as Lead Agency under CEQA has prepared and completed a Revised MND, LDR #42-0341, dated June 13, 2008, and Mitigation, Monitoring, and Reporting Program covering this activity.

Funding Agency: City of San Diego-Prevailing wages do not apply to this contract.

Goals: 11% Mandatory subcontractor Participation Goal, 4% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 6% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Prior to award, a work force report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the plan and adherence to the Non-discrimination 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 bid 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 the implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$4,434,422.50. Enterprise funding of \$4,434,422.50 will be available in CIP-44-001.0, Annual Allocation - Sewer Main Replacements, Fund 41506, Sewer, for this purpose. The total sewer project costs of \$4,434,422.50 may be reimbursed approximately 80% by current or future debt financing. The project is scheduled to use FY10 funding. No further funding is anticipated. The Auditor's Certificate will be provided prior to contract award.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

The Committee on Natural Resources and Culture on October 15, 2008, consent motion by Council President Peters, second by Councilmember Faulconer. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During design, this project was presented to the community. Residents and businesses will be notified by mail 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 the notices. Traffic control plans have been prepared for this project and will be implemented during the construction operations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Residents and businesses will experience minor impacts during construction. After completion, residents and businesses will experience improved reliability of the sewer collection systems.

Boekamp/Jarrell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-102: Inviting Bids for Sewer and Water Group 731. (Peninsula Community Area. District 2.)

(See Engineering and Capital Projects Department's 10/8/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-506) ADOPTED AS RESOLUTION R-304371

Approving the plans and specifications for the construction of the Sewer and Water Group 731 (Project) as advertised by the Purchasing and Contracting Department, on Work Order Nos. 176541/186591;

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

Authorizing the expenditure of an amount not to exceed \$2,653,891.82 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation-Sewer Main Replacements solely for the purpose of construction, contingency and related costs of the Project, provided that the City Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure, under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$1,861,152.58 from Water Fund 41500, CIP-73-083.0, Annual Allocation-Water Main Replacements solely for the purpose of construction, contingency and related costs of the Project, provided that the City Comptroller first furnishes one or more certificates

certifying that the funds necessary for expenditures, under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Forces from Water Fund 41500, CIP-73-083.0 Annual Allocation-Water Main Replacements in an amount not to exceed \$167,271 for construction of the Project;

Authorizing the use of City Forces from Sewer Fund 41506, CIP-44-001.0 Annual Allocation-Sewer Main Replacements in an amount not to exceed \$50,000 for construction of the Project;

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

Finding that this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15302(d) (replacement and reconstruction of an existing facility), and Section 15303(d) (new construction of small structures). (BID-K094251C)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/15/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

Sewer and Water Group 731 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. It is also part of the City of San Diego's sewer main replacement program as mandated by the Environmental Protection Agency (EPA). This project is located in the Peninsula Community Plan area. This project includes the replacement of approximately 4,616 linear feet of existing 8-inch sewer main, the trenches operation of 157 linear feet of 8-inch sewer main, the rehabilitation of 773 linear feet of 6-inch sewer main, and the replacement of 4,535 linear feet of 8-inch water main, and all other work and appurtenances. It also includes installing curb ramps and street resurfacing. The streets affected by Sewer and Water Group 731 are Whittier Street, Edith Lane, Voltaire Street, Udall Street, Willow Street, Westcliffe Place and the surrounding alleys and streets as shown on the location map. The contractor will prepare traffic control shop drawings and implement them during construction after review and approval by the City.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP):

Funding Agency: City of San Diego-Prevailing wages do not apply to this contract.

Goals: 11% Mandatory Subcontractor Participation Goal, 4% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 6% Advisory Participation Goal Other Business Enterprise (OBE).

Other: 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:

The total estimated cost of this project is \$4,515,044.40. Enterprise funding of \$2,653,891.82 will be available in CIP-44-001.0, Annual Allocation-Sewer Main Replacements, Fund 41506, Sewer, and enterprise funding of \$1,861,152.58 will be 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 \$2,653,891.82 and the water portion of \$1,861,152.58 may be reimbursed approximately 80% by current or future debt financing. This project is scheduled to be phase-funded over two fiscal years from FY09 to FY10. No future funding is anticipated. Contingent upon the availability of funds, the City Comptroller will issue an Auditor Certificate for each phase of the Project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Committee on Natural Resources and Culture on October 15, 2008, consent motion by Council President Peters, second by Councilmember Faulconer. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This Project was presented to the Peninsula Community Planning Board on January 15, 2004. On January 11, 2008, the City of San Diego sent out a letter to the Peninsula Community Planning Board Chair offering an additional presentation for an update on the status and schedule of the project. 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. Traffic control will be implemented by the contractor during construction operations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Residents in this area will encounter minor inconvenience during construction. After completion, residents will experience improved reliability of the sewer and water system.

Boekamp/Jarrell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-103: Two actions related to Inviting Bids for Water Main Replacement Group 3008 (Consists of Water Group 532 and Water Group 533 Project.) (Midway District, Downtown, Little Italy Community Areas. District 2.)

(See Engineering and Capital Projects Department’s 10/8/2008, Executive Summary Sheet.)

TODAY’S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2009-513) ADOPTED AS RESOLUTION R-304372

Approving the plans and specifications for the construction of the Water Main Replacement Group 3008 (Water Group 532 and 533) (Project) as advertised by the Purchasing and Contracting Department, on Work Order Nos. 182911/182961;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to establish contract funding phases and execute a construction contract with the lowest responsible and reliable bidder, provided that the City Comptroller first furnishes one or more certificates certifying that the funds

necessary for expenditure, under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$10,052,097.02 from Water, Fund 41500, CIP-73-083.0, Annual Allocation-Water Main Replacements, of which \$5,763,294.37 is for the construction and project related costs of Water Group 532, and \$4,288,802.65 is for the construction and project related costs of Water Group 533, solely for the purpose of construction, contingency and related costs of the Project, provided that the City Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure, under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Forces from Water Fund 41500, CIP-73-083.0 Annual Allocation-Water Main Replacements in an amount not to exceed \$370,766 for construction of Water Group 532, and \$255,589 for the construction of Water Group 533;

Authorizing the expenditure of an amount not to exceed \$20,000 from Water Fund 41500, CIP-73-083.0, Annual Allocation-Water Main Replacements for property related costs;

Authorizing the City Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K094305C)

Subitem-B: (R-2009-542)

ADOPTED AS RESOLUTION R-304373

Declaring that the Addendum to a Mitigated Negative Declaration, Project No. 130739 (Addendum of MND Project No. 63654), dated September 5, 2007, (Addendum), for Water Main Replacement Group 3008 (the Project) on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.);

Declaring, that the Addendum reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Project;

Declaring that the Council finds that revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Project 130739, Addendum, a copy of which is on file in the Office of the City Clerk and incorporated herein by this reference, is approved;

Declaring that pursuant to California Public Resources Code Section 21081.6, the Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this body in order to mitigate or avoid significant effects on the environment, and incorporated herein by this reference;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/15/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.

SUPPORTING INFORMATION:

Water Main Replacement Group 3008 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. Water Main Replacement Group 3008 consists of two (2) Projects, Water Group 532 and Water Group 533. This Project is located in Midway District, Little Italy, and Downtown Community Planning Areas. This Project includes the construction of approximately 17,979 linear feet of existing 16-inch water main and all other work and appurtenances. It also includes installing curb ramps and street resurfacing. The streets affected by Water Main Replacement Group 3008 are North Harbor Drive, Pacific Highway, Laurel Street and the surrounding alleys and streets as shown on the location maps. Contractor will prepare traffic control shop drawings for the portions not covered by our Consultant Traffic Plans and implement them during construction after review and approval by the City.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP):

Funding Agency: City of San Diego-Prevailing wages do not apply to this contract.
Goals: 13% Mandatory Subcontractor Participation Goal, 4% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise

(DVBE), 8% Advisory Participation Goal Other Business Enterprise (OBE)

Other:

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:

The total estimated cost of this Project is \$10,052,097.02. Enterprise funding of \$10,052,097.02 will be available in CIP-73-083.0, Annual Allocation-Water Main Replacements, Fund 41500, Water, for this purpose. The project costs of \$10,052,097.02 maybe reimbursed approximately 80% by current or future debt financing. This Project is scheduled to be phase-funded over two Fiscal Years from FY09 to FY10. No future funding is anticipated. Contingent upon the availability of funds, the City Comptroller will issue an Auditor Certificate for each phase of the project.

PREVIOUS COUNCIL COMMITTEE ACTION:

The Committee on Natural Resources and Culture on October 15, 2008, consent motion by Council President Peters, second by Councilmember Faulconer. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This Project was presented to the Midway Planning Group, Paradise in Progress Review Group, Paradise in Progress Workshop, and Greater Mid-City Community. Coordination meetings and presentations have been on regular occurrences for over a year with the San Diego Airport, Centre City Development Corporation, Port of San Diego, and tenants located throughout the project location. The contractor will contract a Public Information Consultant throughout the construction of the project, to keep everyone updated of progress, answer concerns, and give notifications prior to construction activities. 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 AND PROTECTED IMPACTS (if applicable):

Residents, Port of San Diego, Port Tenants in this area will encounter minor inconvenience during construction. After completion, all will experience improved reliability of the water system. Ninyo & Moore Company was authorized to perform examination and investigation of subsurface conditions including properties of soil, geologic hazard, soil contamination and potential groundwater. Boyle Engineering Company was authorized to prepare traffic control plans for the high volume traffic on North Harbor Drive and Pacific Highway.

Construction along North Harbor Drive will be restricted during the Holiday Moratorium from Thanksgiving Day to the New Year. In addition the construction work from Grape Street to the Airport will be completed at night between the hours of 3:00 P.M. to 6:00 A.M.

Boekamp/Jarrell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-104: Inviting Bids for the Construction of Utilities Undergrounding of Block 2E, Phase I Project. (Old San Diego Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-403) ADOPTED AS RESOLUTION R-304374

Approving the plans and specifications for the construction of Block 2E, Phase I (Project), on Work Order No. 370332;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to award the Project contract to 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 \$3,195,500 from CIP-37-028.0, Utilities Undergrounding of Block 2E Phase I, Underground Utilities District (UUD) Surcharge Fund, Fund No. 30101, solely and exclusively, for the purpose of providing funds for the Project and 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 budgeted funds, if any, to the appropriate reserves;

Stating for the record that the Utilities Undergrounding of Block 2E, Phase I (Project), is a subsequent discretionary approval of the Project addressed in the Mitigated Negative Declaration, Project No. 23247, and therefore not a separate project under California Environmental Quality Act (CEQA) Guidelines Sections 15060(c)(3) and 15378(c). (BID-K094443C)

STAFF SUPPORTING INFORMATION:

In accordance with San Diego Municipal Code (SDMC), Chapter 6, Article 1, Division 5, Underground Utilities Procedural Ordinance, this Project was created per the Underground Utility Districts Residential Project Block 2E (Old San Diego); and will underground all overhead utilities within this district.

Utilities Undergrounding of Block 2E, Phase I Project is part of the City of San Diego's continuing annual Capital Improvements Undergrounding of overhead utility lines. This Project is located in the Old San Diego Area of the Mission Hills Community, and includes the installation of conduits to underground SDG&E, AT&T, Cox Communications, and street lights. The work includes trenching along one side of the right-of-way, installing conduits, and substructures. The streets affected by the construction operation are Arista Street, Pine Street, Ampudia Street, Conde Street, Conde Place, Fort Stockton Drive, Hortensia Street, and Witherby Street. The contractor will prepare traffic control drawings for these streets per City of San Diego's standards, get them reviewed and approved by City staff, and implement them during the construction phase.

EQUAL OPPORTUNITY CONTRACTING:

The Utilities Undergrounding of Block 2E, Phase I, will be awarded under the Mayor's authority to award contracts when the project and funding have been approved by Council. Prior to award of any contract, a work force report, and if necessary, an Equal Opportunity Employment Plan shall be submitted. EOC staff will evaluate the bidder's compliance with contract goals and the good faith effort. Failure to comply with the program's requirements will lead to the bid being declared non-responsive.

Funding Agency: UUD Surcharge Fund No. 30101
Prevailing Wages: N/A

FISCAL CONSIDERATIONS:

The construction cost, and other related costs, such as coordination with the utility companies, inspection and administration are estimated at \$3,195,500. Funds are available in Fund 30100, Undergrounding Surcharge Fund. Contingent upon the availability of funds, the City Comptroller will issue an Auditor Certificate for this Project.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS:

The subject item was presented and approved by the City Council of the City of San Diego on February 2, 2004.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During the design phase, property owners and residents were mailed an informational brochure about the City's Undergrounding Program including information on how to contact and get more information via the Underground Program Information Line and the Underground Program via the internet, where they can access a monthly project status and sign up for email updates from the Underground Program Staff.

Prior to the start of construction affected property owner(s) and/or tenant(s) are invited to a two-hour community forum regarding the project and the construction process, get project maps and schedules, and speak to utility company representatives about individual questions.

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

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Residents, Businesses, and Utility companies.

Boekamp/Jarrell

Aud. Cert. 2900225.

Staff: Marnell Gibson - (619) 533-5213
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-105: Agreement with UC Regents-University of California, San Diego (UCSD) for La Jolla Shores Areas of Special Biological Significance (ASBS) Dry Weather Flow and Pollution Control Grant Program. (La Jolla Shores Community Area. District 1.)

(See Storm Water Department's 10/15/2008, Executive Summary Sheet; and Storm Water Department's 10/15/2008, PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-476) ADOPTED AS RESOLUTION R-304375

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with UC Regents - University of California, San Diego, for the La Jolla Shores ASBS Dry Weather Flow and Pollution Control Program (Project), under the terms and conditions set forth in the Agreement;

Authorizing the City Comptroller to expend an amount not to exceed \$700,000, contingent upon receipt of a fully executed grant agreement; and use \$175,000 for matching funds available in CIP-12-160.0, Fund No. 630221;

Authorizing the Mayor, or his designee, to conduct all negotiations, execute agreements, and submit all documents including, but not limited to amendments and payment requests, which may be necessary for the completion of the Project;

Declaring that this activity is not a "project" and is therefore not subject to California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3). However, the Capital Project for which these funds would be used will be subject to future CEQA review.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/15/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The California State Water Resources Control Board (SWRCB) has established 34 Areas of Special Biological Significance (ASBS) off of the California coast. Two adjacent ASBS exist within the jurisdiction of the City of San Diego (City): ASBS No. 31 (the San Diego Marine Life Refuge at the Scripps Institution of Oceanography) and ASBS No. 29 (the San Diego-La Jolla Ecological Reserve off the coast of La Jolla Shores). The discharge of constituents or "wastes" contained within storm water discharges into the ASBS is prohibited by the California Ocean Plan. However, the Ocean Plan allows jurisdictions to apply to the SWRCB for exceptions to the prohibition if certain conditions are met. The exception is anticipated to prohibit the discharge of dry weather coastal flows into the ASBS.

The City applied to the SWRCB for its exception for ASBS No. 29 in May 2006. While awaiting approval of the exception, the City is working towards the execution of a three-step program designed to reduce impacts to the receiving waters of both ASBS Nos. 29 and 31. The three steps are: formulation of a management plan; execution of a monitoring program; and implementation of Best Management Practices (BMPs).

In October 2005, the City partnered with UC Regents-UCSD to receive an Integrated Coastal Watershed Management Planning Grant from the State of California which resulted in the preparation of the La Jolla Shores Coastal Watershed Management Plan for the ASBS drainage area. City Council voted in June 2008, to adopt the plan. The BMPs per the management plan

include the implementation of dry weather diversions at over 90% of the drainage area collected and discharge out of the municipal storm drain outfalls to the ASBS.

The City has been installing in phases a low flow storm drain diversion system to serve the Pacific Ocean coast of the La Jolla, Pacific Beach, and Ocean Beach areas. Phases I and II have been completed using grant monies from the Environmental Protection Agency. Phase III is nearly complete. Phase III will include a total of 11 locations from La Jolla Point to Ocean Beach.

The fourth phase focuses on the La Jolla ASBS to address the prohibition of dry weather flows under the Ocean Plan Exception Process. Four low flow coastal diversions are planned for this fourth phase. The UC Regents - UCSD applied to the State Board for a second grant under this Consolidated Grant program (Proposition 50) for multiple structural control projects including low flow diversions. City staff coordinated with UC Regents-UCSD for the City to be a subcontractor on this grant for the implementation of three low flow diversions. The City's requested funds under this grant program include the installation of three of the four coastal dry weather diversions; the fourth is funded under an Environmental Protection Agency grant. Partnering with UC Regents-UCSD allows for greater efficiency and additional grant funding opportunities for projects in the ASBS.

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).

FISCAL CONSIDERATIONS:

On June 5, 2007, the General Services Department, Storm Water Pollution Prevention Division Operating Fund transferred \$920,000 to the Engineering and Capital Projects Department which included \$745,000 to assist in the completion of these three Coastal Low Flow Diversions and one US Environmental Protection Agency (EPA) grant Coastal Low Flow Diversion.

This agreement with UC Regents-UCSD is for \$875,000 for construction of three Coastal Low Flow Diversions; \$700,000 is reimbursable under the agreement and \$175,000 fulfills the requirement for matching costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- On June 5, 2007, the General Services Department, Storm Water Pollution Prevention Division Operating Fund transferred \$920,000 to the Engineering and Capital Projects Department which included \$745,000 to assist in the completion of these three Coastal Low Flow Diversions and one US Environmental Protection Agency (EPA) grant Coastal Low Flow Diversion.

- On June 19, 2006, Council approved the acceptance and expenditure of grant funds for the Integrated Watershed Management Plan grant, Resolution R-301543.
- On June 17, 2008, Council voted to adopt the La Jolla Shores Coastal Watershed Management Plan. This action was approved by NR&C on 10/15/08.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On May 9, 2007, the grant concept was presented to the La Jolla Shores Association by UCSD, San Diego Coastkeeper, Storm Water Pollution Prevention Division and the City's consultant Weston Solutions. This meeting was attended by approximately 25 citizens. A public workshop was held on July 30, 2008, for community input on the design of the low flow diversions. Two community members attended, representing two groups. City staff will continue to involve community members and all other affected City departments and agencies involved with this project.

KEY STAKEHOLDERS:

La Jolla Shores community, UC Regents-UCSD, Scripps Institute of Oceanography, San Diego Coastkeeper, and State Water Resources Control Board.

PROJECTED IMPACTS:

The approval of this action will allow the City to continue the project design with community outreach, and construction of improvements to address ASBS requirements.

Heinrichs/Jarrell

Aud. Cert. 2900285.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-106: First Amendment to the California Center for Sustainable Energy (CCSE) Customer Service Agreement. (Citywide.)

(See Metropolitan Wastewater Department's 9/16/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-439) ADOPTED AS RESOLUTION R-304376

Authorizing the Mayor, or his designee, to execute a First Amendment to the Tax Exempt Customer Service Agreement previously approved by Resolution No. R-303880 with California Center for Sustainable Energy (CCSE), a 501(c)(3) not-for-profit California Corporation, per the terms, in order to allow the City to continue its involvement in the non-profit entity energy conservation incentive programs during the Public Utilities Commission's 2009 through 2011 funding period;

Declaring that this Master Agreement is not subject to California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/15/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

On June 26, 2008, the City entered into an agreement with the California Center for Sustainable Energy (CCSE), a 501(c)(3) not-for-profit California Corporation, to administer the Public Utilities Commission's (PUC) Tax Exempt Customer (TEC) Incentive Program. This pilot program provides energy incentives to tax exempt customers for standard and non-standard energy conservation projects. CCSE is authorized to completely implement the incentivized energy conservation projects. All of CCSE's administration costs are paid for by San Diego Gas and Electric (SDG&E).

The prior Council action also authorized four years of phased funding, subject to Council approval of the annual operating budget, which allows the City to implement multiple phases of energy conservation projects.

The current agreement anticipated that the Public Utilities Commission (PUC) would continue the "Tax Exempt Customer Program" pilot program in a similar manner, for the 2009-2011 PUC/SDG&E and CCSE funding cycles. In August 2008, SDG&E informed the City and the CCSE that the services available under this program could continue to be provided by CCSE. However, during the 2009-2011 PUC funding cycle they will be provided through a new program or multiple programs with different names. SDG&E and CCSE have arranged for the programs that will be submitted for PUC approval for the 2009-2011 funding cycle to provide similar services as those received under the Tax Exempt Customer Service Agreement. Staff will review and evaluate the energy conservation project incentives and programs approved by the PUC and SDG&E for the 2009-2011 funding cycle.

This request is to amend the existing agreement with CCSE to cover the 2009 - 2011 funding cycle, if the incentives and services provided are determined to be the same or substantially similar to those included in the Tax Exempt Customer Program and to modify the agreement language to cover any subsequent programs offered by SDG&E that provide the same or similar incentives as those offered through the Tax Exempt Customer Program. This amendment will extend the term of this agreement to June 24, 2012.

Equal Opportunity Contracting Program (EOCP):

Funding Agency: City of San Diego
Goals: 15% Voluntary
Subconsultant Participation: \$287,000 Non Certified Firms
Other: This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Section 22.0702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

There is no cost changes associated with the amendment

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

June 24, 2008, R-303880 Council approval of original agreement. This item was reviewed and approved by the Natural Resources and Culture Committee on October 15, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Not applicable.

KEYSTAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Ratepayers

California Center for Sustainable Energy (CCSE)

San Diego Gas and Electric (SDG&E)

Public Utilities Commission (PUC)

Projected Impacts: Controlled energy costs, reduced power plant emissions, reduced need for additional electrical utility infrastructure.

Ferrier/Barret

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-107: Second Amendment to Agreement with AKT LLP, for External Auditor for Bid to Goal and Pay for Performance Programs. (Citywide.)

(See Independent Budget Analyst Report No. 08-113; AKT's Reports from December 11, 2007 to January 22, 2008; and Administrative Services Department's 10/2/2008, memorandum and 10/6/2008, PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-423 Cor. Copy) ADOPTED AS RESOLUTION R-304377

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Second Amendment to the Agreement with AKT Certified Public Accountants, LLP, for As-Needed External Auditing Services regarding the Bid-to-Goal and Pay-for-Performance Programs of the Water Department and the Metropolitan

Wastewater Department, under the terms and conditions set forth in Amendment No. 2;

Authorizing the expenditure of an amount not to exceed \$170,000, solely and exclusively, to provide funds for the above Amendment No. 2, to be expended as follows: \$100,000 from Water Operating Fund No. 41500 and \$70,000 from Sewer Operating Fund No. 41509.

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).

AUDIT COMMITTEE'S RECOMMENDATION:

On 10/6/2008, Audit voted 2 to 0, to forward the audit consultant contract with AKT to City Council with the recommendation that it be extended for one year. (Councilmembers Faulconer and Young voted yea. Councilmember Atkins not present.)

SUPPORTING INFORMATION:

The Metropolitan Wastewater (MWWD) and Water (WD) Departments engage in operational optimization and cost savings programs.

More specifically, both departments implement "Bid to Goal" (B2G) and "Pay for Performance" (P4P) Programs to create incentives for employees to participate in identifying and creating cost savings and ongoing operational improvements that benefit the rate payers. In part, these programs have benchmarks and goals that when met or exceeded will also result in incentive pay for employees.

The program requires independent verification that the goals, savings and targets were met to substantiate the incentive payments. In the early program years, the departments utilized City staff from the Audit Division of the Auditor & Comptroller's Department to verify the performance. The City Auditor is not able to provide the service at this time. In Fiscal Year 2007, the City entered into Agreement with the Accounting Firm of Grice, Lund and Tarkington, LLP (now doing business as AKT Certified Public Accountants) to verify both B2G and P4P results for the Fiscal Year 2006 program year (C-14164). The original contract award to AKT Certified Public Accountants (AKT) was for one year, with four option years. The City exercised Option 1 via Amendment No. 1 (R-303279).

In addition, both MWWD and WD Departments are currently combining services in order to streamline operations and remove redundancy. B2G and P4P are also being restructured in order to provide greater flexibility as the organization changes. At this time, WD has both B2G and P4P Programs and MWWD has consolidated their B2G and P4P into a B2G Program. This Amendment No. 2 revises the contract from a firm fixed price to an "as-needed" contract on a task order basis to allow for flexibility for modifications occurring within MWWD and WD Departments and the potential changes within the B2G and P4P Programs. This amendment also increases the current value by \$170,000, for a new total not-to-exceed contract amount of \$447,500, and extends the contract duration by one additional year.

FISCAL CONSIDERATIONS:

This action includes potentially five (5) audit components. In accordance with the proposal, the five audit components are to be completed on an "as-needed" task order basis for a total not-to-exceed amount of \$170,000. Funding is available in the amount of \$70,000 from the Sewer Operating Fund and in the amount of \$100,000 from the Water Operating Fund. This action is funded from sewer and water revenue rates only.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

R-303279. This action was discussed at the City Council Audit Committee on October 6, 2008. MWWD and WD Staff requested a contract extension for the three remaining years. The Audit Committee elected to recommend to the full City Council a one year extension.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

- Participating Employees and their respective employee groups, to include: San Diego Municipal Employees Association and AFSCME Local 127.
- AKT, LLP

Ferrier/Barrett

Aud. Certs. 2900257 and 2900260.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-108: Beach Area Neighborhood Prosecution Initiatives Fund. (Mission Beach, Pacific Beach, Mission Bay, and Ocean Beach Community Areas. District 2.)

(See City Attorney's Report dated 10/24/2008 and memorandum dated 9/17/2008; and 9/24/2008 PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-524) ADOPTED AS RESOLUTION R-304378

Authorizing the City Attorney to collect an administrative fee from persons determined by the City Attorney to be eligible to participate in the Beach Area Community Court and who elect to participate in the program. The fee is to be set by the City Attorney, not to exceed limits imposed by state and local laws, to cover the cost of operation and staffing costs for the Beach Area Community Court;

Declaring that the City Attorney shall collect the fees at the time an individual enrolls in the Beach Area Community Court. Any individual unable to pay may participate by performing additional or alternative community work service as directed by the Beach Area Community Court;

Authorizing and directing the City Comptroller to establish the Beach Area Neighborhood Prosecution Initiatives Fund for the purpose of receiving the fees collected by the City Attorney from persons who participate in the Beach Area Community Court;

Authorizing the City Comptroller to appropriate and expend the fees in the Beach Area Neighborhood Prosecution Initiatives Fund to offset operational and staffing costs for the Beach Area Community Court. Any monies deposited into the Beach Area Neighborhood Prosecution Initiatives Fund shall be first expended for expenses associated with the operational and staffing costs of contracts with those individuals or entities who provide services to the Beach Area Community Court;

Finding that the administrative fees are for the purpose of meeting operating expenses and therefore are exempt from CEQA pursuant to Public Resources Code 21080(b)(8).

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S
RECOMMENDATION:**

On 9/24/2008, information only. IBA Policy Analyst Lisa Celaya commented that the Independent Budget Analyst would like additional data regarding the cost of the program and how the cost recovery rate was determined so that they could evaluate the proposal. Ms. Celaya also expressed concern regarding from where the money from the City would come. The committee members recommended that the proposal for a program fee be forwarded to City Council for its consideration.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-109: Consultant Agreement with Simon Wong Engineering, Inc., for the Georgia Street Bridge Over University Avenue Project. (Uptown and Greater North Park Community Areas. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-459) ADOPTED AS RESOLUTION R-304379

Authorizing the Mayor to execute, for and on behalf of the City, an Agreement with Simon Wong Engineering, Inc., for the purpose of developing Seismic Strategy Report under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the expenditure of an amount not to exceed \$242,968.48 from Fund 30300 and 30310, TransNet, CIP-52-555.0, Georgia Street Bridge, for the purpose of providing funds for the above-referenced Project;

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

Declaring that this activity is not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3). The activity for which this Agreement will be used is Statutorily Exempt from CEQA pursuant to State Guidelines 15262 (Feasibility and Planning Studies.) However, additional environmental review will be necessary for any future geotechnical studies to be performed on the historic bridge.

STAFF SUPPORTING INFORMATION:

The Consultant Agreement with Simon Wong Engineering, Inc., will develop a Seismic Strategy Report in accordance with CalTrans and Federal Highways Administration Guidelines. The report will address the feasibility of potential seismic retrofit alternatives for the Georgia Street Bridge over University Avenue. This National Register of Historic Places-listed structure has been evaluated by CalTrans and has been determined to be structurally deficient and functionally obsolete.

In accordance with AR25.60, the Engineering and Capital Projects Department conducted consultant team interviews on April 16, 2008 and selected Simon Wong Engineering, Inc. The interview panel consisted of Frank Gaines, Project Manager for the Engineering & Capital Projects Department, Joseph Asuncion - CalTrans Local Assistance, Robert Jones - CalTrans Structures Local Assistance, and Katherine Hon - Community Representative.

FISCAL CONSIDERATIONS:

The total fee for this Agreement is \$242,968.48. Funding is available in CIP-52-555.0, Replacement of Georgia Street Bridge over University Avenue, Fund Nos. 30300 and 30310, TransNet.

PREVIOUS COUNCIL ACTIONS:

- R-285241, adopted January 23, 1995, Funding and Consultant contract, amended by Manager's Action May 24, 2002.
- R-301548, adopted June 22, 2006, Additional Federal funding and Environmental Consultant contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public meetings have been held in the past, but will resume on a regular basis once the consultant has prepared a detailed alternatives analysis and the environmental review process begins.

STAKEHOLDERS:

Uptown Planners, North Park Planning Committee, University Heights, Simon Wong Engineering, Ninyo & Moore, Nasland Engineering, Martin & Libby Structural Engineers.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego (TransNet Funds)		
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)		
Subconsultant Participation:	\$59,429	Certified Firms (24.4%)	
	\$22,620	Other Firms (9.3%)	
Other:	Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.		

Boekamp/Jarrell

Aud. Cert. 2900268.

Staff: Marnell Gibson - (619) 533-5213
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-110: First Amendment to As-Needed Consultant Agreement with Estrada Land Planning, Inc., for As-Needed Landscape Architectural Services for the Wightman Street Neighborhood Park Project. (Mid City-City Heights Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-486) ADOPTED AS RESOLUTION R-304380

Authorizing the Mayor, or his designee, to execute for and on behalf of the City, a First Amendment to the As-Needed Agreement between the City of San Diego and Estrada Land Planning, Inc., in the amount of \$110,000 for as-needed Landscape Architectural Services for the Wightman Street Neighborhood Park (Project), for a contract amount not to exceed \$360,000, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Authorizing the expenditure of an amount not to exceed \$110,000 from CIP-29-925.0, Wightman Street Neighborhood Park, Fund No. 39094, Special Park Fee, for providing funds for the First Amendment with the Consultant;

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

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

STAFF SUPPORTING INFORMATION:

In August 2006, Estrada Land Planning, Inc., was retained to provide as-needed landscape architectural services for various park projects on an as-needed hourly fee basis, in the amount not to exceed \$250,000. As part of the Contracted Agreement, specific scope of services and fees would be determined in response to an individual task requested by each project. Each task is individually funded by the project.

Task Order No. 1 in the amount of \$250,000 was executed for the design and development of Wightman Street Neighborhood Park needed for the preparation of a general development plan, environmental documents, construction documents, and construction administration. However due to extensive permit requirements by various regulatory agencies, additional technical reports and permit processing are necessary and required to meet all applicable guidelines required for

the park development and as well as the Auburn Creek enhancement. It would be beneficial to obtain these additional services from the same project consultant team.

From the current task performance, the consultant has gained the knowledge of the existing site condition, site constraints and opportunities, sensitive resources and technical reports of this park. This based knowledge is necessary to successfully assist the City in completing the remaining work of this project in a timely manner.

Wightman Street Park is a new one-acre neighborhood park located on 5024 Wightman Street in the Mid City-City Heights Area. The park will provide for amenities including children playgrounds for 2-5 and 6-12 year-olds, basket ball courts, picnic barbeques, shade structure, decomposed granite trail, nature exhibits, landscaping, fencing, drainage facilities, security lighting, art elements and other typical standard amenities.

A portion of Auburn Creek that is located on-site will be enhanced as per the City Chollas Creek Enhancement Program.

FISCAL CONSIDERATIONS:

The original consultant Agreement was authorized in the amount of \$250,000. This request in the amount of \$110,000 will increase the Agreement to a total of \$360,000.

EOUAL OPPROTUNITY CONTRACTING:

Funding Agency:	City of San Diego
Goal:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation:	\$0 Certified firms 0%
	\$37,400 Other firms 34%
Other:	Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On August 5th, 2006, Council Action authorized the Agreement with Estrada Land Planning, Inc., for as-needed landscape architectural services at various City parks (Resolution R-301796).

On April 2nd, 2007 Council Action authorized the request for grant amendment and Special Park Fees for Wightman Street Neighborhood Park; the addition of CIP-29-925.0, Wightman Street Neighborhood Park acquisition and development; the appropriation and expenditure of \$686,000 from Special Park Fee, Fund No. 39094 for the Wightman Street Neighborhood Park; the transfer of \$167,000 from General Services/Street Division (gas tax) fund to Special Park Fee, Fund No. 39094 in CIP-29-596.1, Fox Canyon Neighborhood Park-Ontario Avenue; the closure of CIP No-29-596.1, Fox Canyon Neighborhood Park-Ontario Avenue, and the transfer of excess

budgeted fund, if any, to the appropriation reserves; and the Department of Park and Recreation to pursue other grants for the Fox Canyon, Wightman and Home Avenue (Resolution No. R-302498).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 28, 2007, the Colina Del Sol Recreation Council voted unanimously recommending the approval of the Wightman Street Neighborhood Park General Development Plan.

On April 9, 2008, the Park and Recreation Area Committee - Community Parks II Division voted (8-2-1) recommending the approval of the Wightman Street Neighborhood Park General Development Plan.

On May 14, 2008 the Design Review Committee voted unanimously recommending the approval of the Wightman Street Neighborhood Park General Development Plan.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

- The Colina Del Sol Recreation Council and the City Heights Planning Area Committee
- The Resources Agency of the State of California, Department of Parks and Recreation
- Estrada Land Planning, Inc., and Sub-consultants: Nasland Engineering, Affinis, MEI, Geocon

Oskoui/Jarrell

Aud. Cert. 2900185.

Staff: Darren Greenhalgh - (619) 533-6600
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-111: First Amendment to Consultant Agreement with KTU+A, Inc., for Mission Bay-Fiesta Island General Development Plan (GDP). (Mission Bay Community Area District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-600 Cor. Copy) RETURNED TO MAYOR'S OFFICE

Authorizing the transfer of funds from CIP-22-960.0, Fiesta Island Infrastructure Improvements, to CIP-22-959.0, Mission Bay - Fiesta Island General Development Plan within Fund No. 10507, Sludge Mitigation Fund, in the amount of \$214,000;

Authorizing the City Comptroller to appropriate and expend \$214,000 from CIP-22-959.0, Mission Bay-Fiesta Island General Development Plan, Fund No. 10507, Sludge Mitigation Fund, for the purpose of executing the First Amendment to Consultant Agreement with KTU+A, Inc.;

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a First Amendment to the Consultant Agreement with KTU+A, Inc., in the amount of \$203,786, for additional professional design services for CIP-22-959.0, Mission Bay-Fiesta Island General Development Plan, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and 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 not a project and therefore exempt from California Environmental Quality Act (CEQA) pursuant to State Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

The original agreement with KTU+A, Inc., for professional consulting services for Mission Bay-Fiesta Island General Development Plan was approved by Council on October 31, 2005.

As part of the calculation of the fees, the consultant incorrectly added the various subtotals for the sub consultants on the project. As a result, the compensation amount for the Scope of Services, Exhibit B-1, was incorrectly totaled, resulting in an error of \$41,794 less than the actual total of the various elements. The mistaken total was not discovered until after the Project work had started and work was in progress.

Additionally, as work on the Project has progressed; additional scopes of work items have been identified that are required to complete the project. Additional scope requirements include additional presentations to the Mission Bay Park Committee and community groups, additional detailed biological surveys, application and processing of Site Development and Coastal Development permits, increased complexity of site design requirements based on accommodating numerous competing land uses, increased labor costs associated with processing greater than anticipated public input questionnaires, e-mails, meetings and phone calls, and web site hosting and maintenance. Moreover, subsequent to meetings with user groups, an additional alternative will be developed for consideration. A complete detailed listing of the items of work associated with the increased scope is contained on "Exhibit A-1 Additional Scope of Services" attached to the First Amendment to Consultant Agreement. The total amount requested for these additional services is \$156,992. Staff is also requesting an additional \$5,000 be allocated to cover unforeseen professional design services as the project begins the approval process. The total requested increase to the Consultant's contract is \$203,786.

The remaining \$10,214 will fund additional City staff time required to manage the Project through the approval process.

FISCAL CONSIDERATIONS:

Funds in the amount of \$214,000 are available in CIP-22-960.0, Fiesta Island Infrastructure Improvements, Fund No. 01507, which provides for infrastructure improvements to support future recreational facilities on Fiesta Island in Mission Bay Park.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Original Agreement with KTU+A, Incorporated, in the amount of \$290,000 was approved by City Council on October 31, 2005, RR-300993.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Two public workshops have been conducted where public input has been solicited via questionnaires, and workshop station notes, monthly updates dating back for more than a year with the Mission Bay Park Committee, a project website with feedback and questionnaire opportunities, and information presentations to:

- Clairemont Mesa Town Council (April 5, 2007)
- Clairemont Mesa Planning Committee (May 15, 2007)
- Linda Vista Community Planning Committee (April 23, 2007)
- Pacific Beach Community Planning Committee (April 25, 2007)
- Pacific Beach Town Council (May 16, 2007)
- Mission Beach Precise Planning Board (May 15, 2007)
- Mission Beach Town Council (June 13, 2007)
- Ocean Beach Planning Board (June 6, 2007)
- Peninsula Community Planning Board (May 17, 2007)

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation:	\$11,144 Certified Firms (2.26%) \$227,044 Other Firms (46.43%)
Other:	Work Force Report Submitted. Equal Opportunity Plan requested. Staff will monitor plan and adherence to Non Discrimination Ordinance.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

KTU+A, Incorporated, Mission Bay Park and park users.

LoMedico/Heap

Aud. Cert. 2900241.

Staff: Paul Jacob - (619) 235-5242
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

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

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

- * ITEM-112: Approving Additional Supplies of Sodium Hypochlorite Used for Disinfection. (Point Loma Community Area. District 2.)

(See Metropolitan Wastewater Department's 9/8/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-515) ADOPTED AS RESOLUTION R-304381

Authorizing the Mayor, or his designee, to purchase Sodium Hypochlorite from Olin Chlor Alkali Products at the price of \$0.837 per gallon pursuant to Bid Number 7317-05-T, not to exceed the amounts listed below:

Fiscal Year 2009: \$ 3,200,000

Fiscal Year 2010: \$ 3,680,000

Authorizing the additional expenditure of \$2,200,001 from Sewer Fund 41508, Department 771, for a total of \$3,200,000, for Fiscal Year 2009, solely and exclusively, for the purchase of Sodium Hypochlorite;

Authorizing the expenditure of \$3,680,000 from Sewer Fund 41508, Department 771, for Fiscal Year 2010, solely and exclusively, for the purchase of Sodium Hypochlorite, contingent on approval of such purchase in the Metropolitan Wastewater Department's Fiscal Year 2010 budget, and provided the City Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be on deposit in the City Treasury;

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

Declaring that this activity is not a "project" and therefore not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(2) and 15060(c)(3).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/15/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

Partial disinfection is achievable by increasing the purchase and application of sodium hypochlorite solution at the Point Loma Wastewater Treatment Plant effluent channel. The rate of solution application will be controlled and varied at the plant and performance of the process will be monitored by testing the plant effluent and ocean water. This process will demonstrate compliance with the bacterial objectives of ocean water quality while remaining within established concentration limits of chlorine residual and byproducts. This action is needed to implement and sustain California Regional Water Quality Control Board (RWQCB) Addendum 2 to Order R9-2002-0025.

FISCAL CONSIDERATIONS:

This action will allow an increase of \$2,200,001 of cited chemical expense at the cited plant, greater than the current Purchase Order at \$999,999, within the current FY 2009 MWWD budget and sewer rates. A similar rate of application in FY 2010, should the option term be exercised within the current bid and pricing agreement, may increase to a NTE \$3,680,000, subject to FY 2010 appropriation and purchase, but within this Council action of procurement level.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was reviewed and approved by the Natural Resources and Culture Committee on October 15, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH:

Potential changes in truck traffic have been discussed at meetings with Point Loma stakeholders, via the monthly "Good Neighbors" meeting. This meeting includes representatives from the Cabrillo National Monument, Coast Guard, Fort Rosecrans National Cemetery, Navy, and City.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Achieving RWQCB order and permit compliance benefits Metro Wastewater System customers.

Ferrier/Barrett

Aud. Cert. 2900280.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-113: Return of Endowment Funds for Maintenance of Medians on Montezuma Road to San Diego State University. (College Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-132) ADOPTED AS RESOLUTION R-304382

Authorizing the return of the endowment, \$100,000 in principal, from Fund No. 67050, to San Diego State University (SDSU);

Authorizing the return of the unspent interest earned from the endowment, \$13,771.81 as of June 6, 2008, from Fund No. 67050, to SDSU;

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

STAFF SUPPORTING INFORMATION:

On February 25, 2002, via Resolution R-296110, the City 1) established the Montezuma Road Median Maintenance Fund, Fund No. 67050, 2) accepted a \$100,000 endowment from San Diego State University for the maintenance of medians on Montezuma Road, and 3) authorized the expenditure of interest from the fund. The medians were at that time proposed for construction as CIP-52-692.0. San Diego State University (SDSU) collected the \$100,000 under the terms of an agreement between SDSU, the College Area Community Council (CACC), and the City under which \$1 from the sale of each ticket from all large commercial events held at

Cox Arena would be used for capital improvements and maintenance expenses in the College Community Area.

The Agreement between the City and SDSU reads in part: "If the College Area Community Council requests at the end of five years that the City return the \$100,000 transfer, a substitute funding mechanism for the maintenance of the medians must be established by the CACC".

Effective July 1, 2007, the City began funding the maintenance of the Montezuma Road medians with Gas Tax revenue. On October 11, 2006, the CACC voted to terminate the maintenance agreement on January 9, 2007 and on February 18, 2008, staff received a request from Dan Cornwaite, CACC Treasurer, formally requested return of the \$100,000 principal of the endowment along with approximately \$15,000 in unspent interest.

FISCAL IMPACT:

The affected medians are currently being maintained with Gas Tax revenue and the endowment is not currently being used. Returning the endowment would allow the funds to be used for other purposes.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

1. Resolution R-296110 dated February 25, 2002.
2. July 19, 2001, Agreement between the City of San Diego and San Diego State University.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The College Area Community Council has requested this action.

STAKEHOLDERS AND PROJECTED IMPACTS:

Returning the endowment would allow the funds to be used for other purposes.

LoMedico/Heap

Aud. Cert. 2800877.

Staff: Chris Zirkle - (619) 533-6721
Kimberly Ann Davies - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-114: Community Oriented Policing Services (COPS) Technology 2008 – Enhanced Field Automation Capabilities.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-510) ADOPTED AS RESOLUTION R-304383

Authorizing the Mayor, or his designee, including the Chief of Police, for and on behalf of the City of San Diego, to submit an application for, accept, expend and manage the grant funds and program for the purposes stated in the application;

Declaring that this authority includes the execution of all aspects of fund and program operation, including any amendments, extensions, augmentations, or renewals from the U.S. Department of Justice for identical or closely related purposes; and to certify that the City will comply with all applicable statutory or regulatory requirements;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend these funds if grant funding is secured;

Declaring that this authorization shall be valid for a period of up to five years, provided funding for this purpose is made available by the U.S. Department of Justice;

Declaring that any resources received hereunder shall be used to supplement and not to supplant expenditures controlled by this body.

STAFF SUPPORTING INFORMATION:

The San Diego Police Department has been selected to receive \$678,039 in federally appropriated funds to enhance law enforcement and crime prevention abilities through the use of greatly expanded automation capabilities.

The Project Goal is to build upon existing automated systems to capture, analyze and provide criminal justice data in the field for officers and detectives to utilize in identifying and targeting crime problems.

The Objectives are to: (1) enhance existing systems to permit electronic capture of timely and relevant criminal data from the field; (2) provide criminal justice data in the field, using laptops and PDAs, in a real time, user friendly format; and (3) incorporate advanced problem solving abilities, including data gathering, analysis, and dissemination.

In order to implement these objectives, funds will be used to enhance the automation systems to permit them to: capture auto theft information electronically; establish an online reporting system for citizens; enhance mapping and link analysis; auto-populate the arrest log; enable multiple system queries with a single search; and convey additional data to officers in the field. Funds are allocated to the equipment, supplies and consultants/contractors categories for the above purposes.

The project period is 36 months, to design, develop, test and implement the enhancements. Once department-wide application is achieved, the project is expected to greatly improve the ability to predict, prevent and solve crime; identify linkages, hotspots, associates, and other connections; support greater cooperation among local, regional, state and federal agencies; improve community relations; and bring community policing and problem solving to new levels in San Diego.

A process and evaluation will be conducted to assess department and community satisfaction with the improvements.

EEO: 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).

FISCAL CONSIDERATIONS:

Approval of this project will result in no additional direct costs to the City or SDPD. There is no requirement for matching funds, nor to continue program operations or expenditures after funding is depleted or discontinued.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Lansdowne/Olen

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-115: Prop 1B Traffic Light Synchronization Program (TLSP) At-Grade Crossing and Traffic Synchronization Project. (Centre City Community Area. District 2.)

(See memorandum from Beryl Bailey Rayford dated 11/4/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-497) ADOPTED AS RESOLUTION R-304384

Authorizing the City Comptroller to expend an amount not to exceed \$100,000 from CIP-59-021.0, Fund No. 30310, TransNet, for the purpose of contributing local funds as a match for the At-Grade Crossing and Traffic Synchronization Improvement Project, contingent upon receipt of a fully executed grant agreement with SANDAG;

Declaring that this activity is not a "project" and is therefore exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(2). Any construction activities related to this approval will be subject to environmental review.

STAFF SUPPORTING INFORMATION:

As a regional partner with SANDAG, we are committed to efficient trolley and vehicle traffic movement within the center city of San Diego to maximize benefits to all in the downtown zone.

This project will outfit 123 MTS light rail vehicles with global positioning system (GPS) and communication systems to transmit location and movement data to San Diego Trolley's Centralized Train Control (CTC) system. The CTC system will communicate this data to SANDAG's deployed Regional Arterial Management System (RAMS) which will give priority to light rail vehicles within a specific corridor only when there are trains in that corridor. The proposed project will also synchronize 80 traffic signals along adjacent and perpendicular arterial segments in the downtown area in an effort to improve both trolley and arterial Street operations. The total TLSP funding is \$820,000.

The project will result in significant operational improvements for both trolley and arterial operations including an estimated 90% reduction in trolley intersection delay, an estimated 44% reduction of average intersection traffic delay (from 13.5 sec/veh to 7.6 sec/veh), and an estimated reduction of 66% percent of total passenger intersection delay.

This type of project will provide environmental benefits by reducing delays and congestion, improve peak travel times and air quality, and will also increase safety by reducing the potential of trolley and vehicular traffic conflicts.

In addition, SANDAG has set aside \$100,000 in local matching funds through TransNet and the City of San Diego will be contributing \$100,000 from their local TransNet funds. This represents an estimated 20% of local match from the total project estimated cost of \$1,020,000.

FISCAL CONSIDERATIONS:

This action will authorize the expenditure of \$100,000 from CIP-59-021.0, Transportation Grant Matches, Fund 30310, TransNet for the purpose of contributing local TransNet funds as a match.

PREVIOUS COUNCIL COMMITTEE ACTION: N/A**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A****KEY STAKEHOLDERS:**

Those that ride the trolley, walk or drive downtown will experience increased safety and reduced travel time.

Boekamp/Jarrell

000089

Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, November 18, 2008

Page 65

Aud. Cert. 2900184.

Staff: Deborah Van Wanseele - (619) 533-3012
Michael P. Calabrese - Chief Deputy City Attorney
FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-116: Continued Retention of Sullivan Hill Lewin Rez & Engel, A Professional Law Corporation for Legal Services for Case *Janet M. Wood vs. City of San Diego*.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-483) ADOPTED AS RESOLUTION R-304385

Authorizing the City Attorney to continue the retention of Sullivan Hill Lewin Rez & Engel, A Professional Law Corporation for outside counsel services for an additional amount not to exceed \$100,000 to defend any and all claims in *Janet M. Wood v. City of San Diego*, U.S. District Court No. 03CV1910;;

Authorizing the City Comptroller to expend up to \$100,000 from the Public Liability Fund.

SUPPORTING INFORMATION:

On 9/13/02, Attorney Michael Conger filed the *Conny Jamison v. City* Case (02CV1825; Risk No. LX03-0880-0701) alleging unequal retirement benefits for non-spouse partners. This case was dismissed on 02/06/2004.

On 9/25/2003, Attorney Michael Conger filed a companion case, *Janet Wood v. City* (03CV1910; Risk No. LX04-0880-0683) alleging lower retirement benefits based upon sex discrimination and marital discrimination. The City prevailed by way of Summary Judgment

Motion in 2004. Plaintiff appealed (9th Cir Ct of Appeals Case # 05-551960) and the Court reversed and remanded (filed 4-6-07) the case to the trial court with the State discrimination claim reinstated. Therefore, the case is now back in District Court for trial.

The firm of Sullivan Hill Lewin Rez & Engel is outside counsel on this matter. The City, in December 2002, hired David Hopkins of Hillyer & Irwin to defend the Jamison case, which transformed into the Wood case. Hillyer went out of business and Mr. Hopkins moved to Sullivan Hill Lewin Rez & Engel. The original agreement with Hillyer was for \$250,000 and was brought forward on a 1544, Manager Action (Document No. C-12129, filed in the Office of the City Clerk on August 11, 2003).

FISCAL CONSIDERATIONS:

The City shall compensate Sullivan Hill Lewin Rez & Engel based on its hourly rates for legal services. This Request is for an additional not-to-exceed amount of \$100,000 and will be borne by the Public Liability Fund, thus cumulative funding in this matter will be \$350,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On September 16, 2008, the City Council voted in Closed Session on item CS-3, *Janet Wood v. City*, Federal District Court Case No. 03CV1910, approving the litigation strategy and to authorize the continued retention of outside counsel. The motion was made by Council President Peters and the second by Council President Pro Tem Madaffer. The motion passed 8 to 0. City Council was briefed in Closed Session by outside counsel on February 18, 2003, on a prior case which presented identical claims (*Jamison*), which was dismissed when the current case was filed.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Sullivan Hill Lewin Rez & Engel LLP.

Tomanek

Aud. Cert. 2900306.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-117: Contract for Legal Services with Paul Plevin Sullivan & Connaughton, LLP, Regarding *Jacqueline Lindsay vs. Office of the City Attorney and City of San Diego*.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-484) ADOPTED AS RESOLUTION R-304386

Authorizing the City Attorney to retain Paul Plevin Sullivan & Connaughton, LLP for the legal services in *Jacqueline Lindsay v. Office of the City Attorney and City of San Diego* in an amount not to exceed \$100,000. Non-conflicted employees in the City Attorney's Office shall monitor and direct the firm's work;

Authorizing the City Comptroller to expend up to \$100,000 from the Public Liability Fund.

SUPPORTING INFORMATION:

On or about February 28, 2007, Jacqueline Lindsay filed a claim with Risk Management for harassment, discrimination, worker's compensation, and disability claims. Ms. Lindsay also filed a Writ for denial of long-term disability benefits and industrial leave, *Jacqueline Lindsay v. Office of the City Attorney and City of San Diego, et al.* San Diego Superior Court Case No. 881910. Outside legal counsel is necessary because Jacqueline Lindsay is a former Deputy City Attorney and the claims arise out of the actions allegedly taken by the City Attorney's Office. Paul Plevin Sullivan & Connaughton, LLP, has been identified as the firm best able to provide the necessary services within the required time frame. It is proposed that the representation be in an amount not to exceed \$100,000. Non-conflicted employees in the City Attorney's Office shall monitor and direct the firm's work. In a separate but related action on or about November 2007, Jacqueline Lindsay filed a complaint alleging wrongful discharge against the City and an Assistant City Attorney, San Diego Superior Court Case No. 37-2007-00081422-CU-WT-CTL, and due to the conflict of interest outside counsel the Brown Law Group is defending that case.

FISCAL CONSIDERATIONS:

Up to \$100,000 from the Public Liability Fund (81140).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On September 16, 2008, the City Council voted in Closed Session on Item CS-4, *Jacqueline Lindsay v. Office of the City Attorney and City of San Diego, et al.*, San Diego Superior Court Case No. 881910, to authorize the litigation strategy and to the retention of Paul Plevin Sullivan & Connaughton, LLP in this matter. The motion was made by Council President Peters and the second by Council President Pro Tem Madaffer. The motion passed unanimously 8-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Paul Plevin Sullivan & Connaughton, LLP

Tomanek

Aud. Cert. 2900307.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-118: Retention of Wood, Smith, Henning & Berman, LLP for Legal Services for Case *Bun Bun Tran vs. City of San Diego et al.*

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-485) ADOPTED AS RESOLUTION R-304387

Authorizing the City Attorney to retain Wood, Smith, Henning & Berman, LLP for the provision of legal services in *Bun Bun Tran, et al. v. City of San Diego, et al.*, San Diego Superior Court Case No. 37-2007-00065432-CU-PA-CTL;

Authorizing the City Comptroller to expend up to \$500,000 from the Public Liability Fund on this matter.

SUPPORTING INFORMATION:

Plaintiff claims intersection was a dangerous condition of public property and suffered injuries in automobile collision. The incident occurred on November 19, 2006, and the lawsuit was filed on May 8, 2007. The City's insurance carrier requested that co-counsel be hired to try the case.

FISCAL CONSIDERATIONS:

The City shall compensate Wood, Smith, Henning & Berman LLP based on its hourly rates for legal services. This Request has a not-to-exceed amount of \$500,000 and will be borne by the Public Liability Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This is the initial request to Council for approval of services for the above-listed matter. In the Closed Session Meeting of September 9, 2008, on Item CS-1, the City Council approved the case strategy and authorized retention of outside counsel. The motion was made by Council President Peters and the second by Council President Pro Tem Madaffer. The motion passed unanimously 8 to 0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Wood, Smith, Henning & Berman LLP.

Tomanek

Aud. Cert. 2900309.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-119: Settlement of Property Damage Claim of Lexington Insurance Company as Subrogee of San Diego Unified School District. (La Jolla Community Area District 1.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-322) ADOPTED AS RESOLUTION R-304388

Authorizing the City Auditor and Comptroller to issue a check in the sum of \$215,000 made payable to Lexington Insurance Company in full settlement of the lawsuit and of all claims;

Authorizing to pay the sum of \$215,000 from the Public Liability Fund 41500.

SUPPORTING INFORMATION:

The proposed settlement would resolve all claims brought by Lexington Insurance Company as subrogee of San Diego Unified School District.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Water Utility Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In Closed Session on September 23, 2008, by motion of Councilmember Frye and second by Councilmember Hueso, the City Council, by the following Vote: Yeas, 5; Nays, None; Not Present, Council President Peters, and Councilmembers Atkins and Madaffer, approved the following motion: To approve the mediated settlement agreement of each and every claim against the City of San Diego, its agents and employees, resulting from the property damage claim in *Lexington Insurance Company v. City of San Diego*.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Hsu/Lewis

Aud. Cert. 2900313.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-120: Settlement of Personnel Claim of Linda Woodbury.

CITY ATTORNEY’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-348) ADOPTED AS RESOLUTION R-304389

Authorizing the City Auditor and Comptroller to issue a check in the amount not exceeding \$450,000, made payable to the Law Offices of Larabee & Gruenberg, in trust, for the benefit of Linda Woodbury and her attorney Josh Gruenberg, in full settlement of the lawsuit and of all claims;

Authorizing to pay the sum of \$450,000 from the Public Liability Fund 81140.

SUPPORTING INFORMATION:

The proposed settlement would resolve all claims arising from the Personnel Claim of Linda Woodbury.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund in the amount of \$450,000, (Fund 81140).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was considered in Closed Session on September 23, 2008, the City Council approved the settlement amount of \$450,000. City Council voted 6 to 0 with two members absent to approve. The motion was made by Councilmember Maienschein with a second by Councilmember Young. Council President Peters and Councilmember Faulconer were absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Phillips/Lewis

Aud. Cert. 2900289.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-121: Consultant Agreements with NBS Government Finance Group and David Taussig & Associates for Community Facilities District and Assessment District Administration Services. (Black Mountain Ranch, Peninsula, Miramar Ranch North, Mira Mesa, Mission Valley, and Otay Mesa Community Areas. Districts 1, 2, 5, 6, and 8.)

(See memorandum from Beryl Bailey Rayford dated 10/8/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-548) ADOPTED AS RESOLUTION R-304390

Authorizing the Mayor to enter into an Agreement with NBS Government Finance Group to provide Annual Administration Services relating to the City's Assessment Districts in an amount not to exceed \$28,150.

Subitem-B: (R-2009-549) ADOPTED AS RESOLUTION R-304391

Authorizing the Mayor to enter into an Agreement with David Taussig & Associates to provide Annual Administration Services relating to the City's Community Facilities Districts in an amount not to exceed \$65,100.

STAFF SUPPORTING INFORMATION:

The City of San Diego currently has six Community Facilities Districts with a total of \$141 million of outstanding special tax bonds and encompassing 5,169 parcels of land. The City also has four Assessment Districts with a total of \$28 million of outstanding assessment bonds and encompassing 3,325 parcels of land.

District administration services to be provided by the Consultants include the following:

- Maintenance of a detailed parcel database
- Preparation of the annual Special Tax Levy and Assessment Levy for each district and submission of the levy to the County of San Diego
- Special Tax and Assessment prepayment calculations
- Special Assessment apportionment services (assessment districts only)
- Assistance with Continuing Disclosure Annual Reports

Since the districts were formed, Debt Management has engaged the use of various consultants for tasks related to the administration of the City's Community Facilities Districts and Assessment Districts. There were numerous contracts for these services, and they varied in scope and duration. As a result, it has become difficult to administer the contracts without reallocating some staff resources from the department's core financing related functions.

Consolidation of the services and the associated contracts with the two firms referenced above will result in a more efficient process to administer the needed contracts.

The two firms were selected using the City's As-Needed List for Special Tax Consultants and Assessment Engineers, established through a competitive Request for Proposals ("RFP") process. Specifically, three firms were short-listed from the As-Needed List based on their ability to provide the subject services, as communicated through their responses to the As-Needed List RFP. A request for submittals for the subject services was sent to the three firms, and an evaluation committee reviewed the submittals with emphasis on the following criteria:

relevant experience of the firm; overall responsiveness to the proposal; qualifications of personnel assigned; approach to providing the scope of services; costs; and references. The committee determined that David Taussig & Associates presented the strongest proposal for the Community Facilities District services and NBS presented the strongest proposal for the Assessment District services.

FISCAL CONSIDERATIONS:

There is no fiscal impact to the City associated with this action. All costs to administer the Community Facilities Districts and Assessment Districts are borne by the respective districts, and are recovered through the annual special tax or assessment levy.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Since the districts were formed, there have been previous City Council actions and Managerial Actions related to various contracts to provide district administration services.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None required.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The contracts would be entered into with the following business entities: David Taussig & Associates, Inc.; and NBS Government Finance Group, Inc. As described above, the costs would be recovered from the special taxes and assessments levied on property owners within each of the districts.

Kommi/Lewis

Aud. Cert. 2900327.

Staff: Elizabeth Kelly - (619) 236-6932
Brant Will – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-122: Sewer Easement Vacation in Parcels 2 and 3 of Parcel Map 4380. (Rancho Bernardo Community Area. District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-304) ADOPTED AS RESOLUTION R-304392

Finding that with respect to the Easement to be summarily abandoned:

- 1) The Easement does not contain public utility facilities;
- 2) The Easement has not been used for the purpose for which it was acquired for five consecutive years immediately preceding the proposed abandonment;
- 3) There is no present or prospective public use for the Easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated;
- 4) The public will benefit from the action through improved utilization of the land made available by the abandonment;
- 5) The abandonment is consistent with all applicable land use plans;
- 6) The public facility or purpose for which the Easement was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the Easement was acquired no longer exists.

Declaring that the Easement located within Parcels 2 and 3 of Parcel Map 4380, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20665-B, marked as Exhibit "B," is ordered summarily abandoned;

Directing the City Clerk to record a certified copy of this Resolution, with attached Exhibits, attested by her under seal, in the Office of the County Recorder. From and after the date of recordation of this Resolution, the abandoned public service easement shall no longer constitute a public service easement. Upon such recordation, the summary abandonment is complete;

Finding that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15301 (Existing Facilities).

STAFF SUPPORTING INFORMATION:

This sewer easement vacation is located in the Rancho Bernardo Community Plan area, on the Rancho Bernardo Inn property, north of Rancho Bernardo Road at the northerly terminus of Bernardo Oaks Drive.

This project consists of vacating a sewer easement that was granted to the City over five years ago at no cost to the City. The easement has not been used for the purpose for which it was dedicated or acquired for the last five years, and is no longer required by the City. There is no present or prospective public use of the existing easement in its present location.

FISCAL CONSIDERATIONS:

There are no fiscal impacts in connection with this action. All costs are being paid by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Although no Community Planning Group recommendation is legally required, this project was routed to the Community Planning Group and no comments were received.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

RBI Investors, LP

Broughton/Anderson/GB

Staff: G. Bollenbach- (619) 446-5417
Adam Wander - Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-123: Easement Exchange with AT&T California – Vineyards Golf Course. (San Pasqual Community Area. District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-487) ADOPTED AS RESOLUTION R-304393

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a grant of easement document (Deed) to Pacific Bell, granting a right-of-way for communications services and facilities maintenance across the Property, as more particularly described in the Deed;

Authorizing the Mayor, or his designee, to accept and record the vacation and surrender of the 1993 right-of-way easement in favor of Pacific Bell;

Authorizing the City Comptroller to accept \$1,590 from Pacific Bell and to deposit such funds into the Water Department Revenue Account 77438.

STAFF SUPPORTING INFORMATION:

An easement exchange has been requested by AT&T to allow for the installation of upgraded communication cabinet facilities. AT&T is requesting that the City grant an 858 square-foot easement area. In exchange, AT&T proposes to quitclaim an existing 669 square-foot easement back to the City. The proposed service upgrades will directly benefit the City's Lessee, Vineyards Golf Course operation, in that enhanced television and telephone service will be made possible with the installation of the new communication equipment. Additionally, compared to the existing easement area, the location and configuration of the new easement and proposed facilities is much less intrusive to the ongoing maintenance operations at the golf course, and is therefore desirable to the City's Lessee. Because the easement rights to be exchanged are of equal value, and the City is to benefit directly from the service upgrades, no compensation is to be requested by the City for the new easement rights.

It should be noted that by Resolution R-272774, adopted January 30, 1989, the City of San Diego was authorized to acquire a one-half interest, along with the City of Escondido, in the parcel affected by the subject easement exchange. As such, the easement and quitclaim documents will require the execution of both Cities to allow for the exchange of property rights.

FISCAL CONSIDERATIONS:

A \$1,590 processing fee will be paid to the City of San Diego by AT&T, to cover staff labor and other costs associated with the processing of the easement exchange.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

None regarding this specific project or the contemplated exchange of easement rights.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Cities of San Diego and Escondido, and their Joint Lessee, the Vineyards Golf Course, are the key stakeholders. Projected impacts include enhanced television and telephone service for the Lessee, as well as for the private citizens in the area. The Lessee's utility of the property will also be enhanced by the relocation of the communication equipment.

Barwick/Anderson

Staff: Lane MacKenzie - (619) 236-6050
John H. Serrano - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-124: Community Sign Installations at Various Locations. (Kearny Mesa, Mission Valley, Grantville, and Redwood Village Community Areas. Districts 6 and 7.)

(See memoranda from Council President Pro Tem Madaffer dated 2/4/2008 and 3/11/2008; and memoranda from Councilmember Frye dated 9/2/2008 and 3/11/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-512) ADOPTED AS RESOLUTION R-304394

Amending the Fiscal Year 2009 Capital Improvements Program Budget in CIP-52-807.0, Community Sign Installations at Various Locations, in Fund 10605 in the amount of \$38,410, Fund 39223 in the amount of \$60,000, Fund 63022 in the amount of \$7,920, Fund 10259 in the amount of \$20,999.37, by increasing the budget amount by \$ 127,329.37;

Authorizing the Mayor, or designee, to accept a donation in the amount of \$7,920 from the Redwood Village Community Council for the purpose of constructing a community sign;

Authorizing the Mayor, or designee, to take all necessary actions to secure funds from the Redwood Village Community Council into Fund 63022, Contribution to CIP for the Project;

Authorizing the appropriation and expenditure of an amount not to exceed \$127,329.37 from CIP-52-807.9, Community Sign Installations at Various Locations; \$38,410 in Fund 106045, Mission Valley Community Fund; \$60,000 in Fund 39223, Kearny Mesa Enhancement Fund; \$7,920 from Fund 63022, Contributions to CIP, solely and exclusively, for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer; and \$20,999.37 from Fund 10529, Council District 7 Infrastructure Fund, for the purpose of design and construction of Community Signs;

Authorizing the City Auditor and Comptroller to de-appropriate an amount not to exceed \$38,410 from CIP-52-807.0 (Job Order 528071), Fund 10529, Council District 6 Infrastructure Fund, and return said amount to the appropriate reserves;

Authorizing the City Auditor and Comptroller to de-appropriate an amount not to exceed \$7,920 from CIP-52-807.0 (Job Order 528072), Fund 10529, Council District 7 Infrastructure Fund, and return said amount to the appropriate reserves;

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

Declaring that this activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15303, new construction of small structures.

STAFF SUPPORTING INFORMATION:

This project, Community Sign Installations at Various Locations, CIP-52-807.0, will provide for the installation of community identification signs at various locations. The initial phase of the project will construct four community signs, two of which include the installation of solar lighting on the signs to enhance visibility at night. The installation of these signs will enhance the appearance of the community entryways and will provide for neighborhood identification. All four community signs were conceptually designed within the guidelines of the associated community plans.

Two signs will be installed in the Mission Valley Community Area (Job Order 528071): one at the boundary of the Mission Valley and Grantville communities, located on Friars Road west of Santo Road; and one at the boundary between the Mission Valley community and Mission Bay Park, located on Friars Road east of Napa Street. Funding for these signs has been made available from Council District 6 Infrastructure funds in the amount of \$13,303.50 and the Mission Valley Community fund in the amount of \$38,410. Total estimated cost for the signs in the Mission Valley and Grantville communities is \$51,713.50.

One sign will be located in the Kearny Mesa Community Area on Linda Vista Road south of Aero Drive at the southern entryway to Kearny Mesa. Funding for this sign is available from the Kearny Mesa Enhancement Fund in the amount of \$60,000 which will fully fund the construction of this sign.

The Redwood Village Community Area sign (Job Order 528072) will be installed on College Avenue just south of the University Avenue intersection. Total cost of the Redwood Village Community sign is estimated at \$15,615.87. Funding for this sign is available from a donation made by the Redwood Village Community Council in the amount of \$7,920 and Council District 7 Infrastructure funds in the amount of \$7,695.87.

In order to expedite the award of construction contracts for the Mission Valley/Mission Bay Park Community Signs and the Redwood Village Community Sign project, Council Districts 6 and 7 authorized the expenditure of council district infrastructure funds with the provision that these funds be returned upon the acceptance and appropriation of the Mission Valley community fund and the Redwood Village Community Council donation.

FISCAL CONSIDERATIONS:

The total project estimate for CIP-52-807.0, Community Sign Installations at Various Locations, is \$127,329.37.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This project was initiated by the local community groups and was processed through the Council Offices. Input on the design concept was received through discussions with the community representatives and the Council Offices.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

- Mission Valley Community Planning Group
- Grantville Community Planning Group
- Kearny Mesa Community Planning Group
- Redwood Village Community Council
- Surrounding Residents and Businesses

EQUAL OPPORTUNITY CONTRACTING (EOC):

This item 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).

- Equal Opportunity Goals: There are no goals associated with this project.
- Outreach: There are no outreach requirements for this project.
- Funding Agency: Infrastructure Funds, Community Funds, Enhancement Funds,
Contributions to the CIP (County Grant).
- Prevailing Wages: Not Required.

Boekamp/Jarrell

Aud. Cert. 2900278.

Staff: Mark Giandoni - (619) 533-4618
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-125: Angle Parking Installation on Hornblend Street. (Pacific Beach Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-495) ADOPTED AS RESOLUTION R-304395

Authorizing the installation of angle parking on Hornblend Street between Ocean Boulevard and the alley east of Ocean Boulevard;

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

STAFF SUPPORTING INFORMATION:

This action will authorize the installation of angle parking on the north side of Hornblend Street between Ocean Boulevard and the alley. This action is in accordance with Municipal Code Section 86.03, and California Vehicle Code Section 22503.

Hornblend Street between Ocean Boulevard and the alley is a two-lane, 52-foot wide two-way street with parking permitted on both sides of the street. In an effort to increase available parking in Pacific Beach, the Homeowners Association representing See the Sea condominiums has requested the conversion of this segment of the north side of Hornblend Street from parallel to angle parking. The See the Sea condominium complex represents 100% of the adjacent property frontage. The installation of angle parking at this location would result in a net gain of two parking spaces, one of which will be a disabled parking (blue) zone. The item was presented to the Pacific Beach Community Planning Committee. There was some concern expressed that angle parking may be less safe than parallel parking for bicycles. However, there is adequate roadway width to safely accommodate bicyclists.

FISCAL CONSIDERATIONS:

\$550. The striping of the angle parking spaces will be completed by the City of San Diego Street Division at a cost of \$550 and will be completed within the Street Division existing budgeted resources. General funds are not budgeted for this specific project. However, Street Division will prioritize other maintenance needs in order to complete this project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Pacific Beach Community Planning Committee voted in favor of this action (7-6-0). Those that voted against the action were concerned about bicycle safety.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Area residents, businesses and beach users will benefit from the additional parking.

Boekamp/Jarrell

Aud. Cert. 2900179.

Staff: Deborah Van Wanseele - (619) 533-3012
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-126: Multiple Species Conservation Program - Property Acquisition. (East Elliot and Otay Mesa Community Areas. Districts 7 and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-503) ADOPTED AS RESOLUTION R-304396

Authorizing the Mayor, or his designee, to increase by \$1,150,000 in the Fiscal Year 2009 Capital Improvements Program Budget in CIP-37-443.0, Multiple Species Conservation Program - Property Acquisition, in Fund No. 10571, Habitat Acquisition Fund, for the continued acquisition of property in the western portion of East Elliott;

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

Authorizing the City Comptroller to appropriate and expend an amount not to exceed \$1,150,000 from CIP-37-443.0, Multiple Species Conservation Program - Property Acquisition, in Fund No. 10571, Habitat Acquisition Fund, for the continued acquisition of property in the western portion of East Elliott and the contracting of appraisal work in the Otay Mesa MSCP area.

STAFF SUPPORTING INFORMATION:

The City has an on going acquisition program within the East Elliott area, where they have acquired over 580 acres to date.

FISCAL CONSIDERATIONS:

Funding in the amount of \$1,150,000 is available in Fund 10571, Habitat Acquisition Fund, for these actions.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

By previous Resolutions, R-297751 dated 3/24/2003, R-398808 dated 1/26/2004, and R-302323 dated 2/14/2007, Council has approved a continuous acquisition program within the East Elliott area.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Park & Recreation expansion of its East Elliott ownership.

Barwick/Anderson

Aud. Cert. 2900288.

Staff: B. Lane MacKenzie - (619) 236-6050
Todd Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-127: Three actions related to Ratification of the 2008 Project Area Committee (PAC) Election for Three Redevelopment Project Areas. (City Heights, College Area, Clairemont Mesa, Linda Vista, Midway/Pacific Highway Corridor, Mission Valley, Old San Diego, Peninsula, and Uptown Community Areas. Districts 2, 3, 4, 6, and 7.)

(See Report to the City Council No. 08-164.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-464) ADOPTED AS RESOLUTION R-304397

Approving as constituting a representative Project Area Committee (PAC) for the City Heights Redevelopment Project, candidates who received the highest number of votes in their respective categories and listed on the City Clerk's Office's verification of election results;

Finding that the election results of October 13, 2008, are valid and binding in accordance with the Formation Procedures adopted by Resolution No. R-298199;

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

Subitem-B: (R-2009-555) ADOPTED AS RESOLUTION R-304398

Approving as constituting a representative Project Area Committee (PAC) for the College Community Redevelopment Project Area Committee candidates receiving the highest number of votes;

Declaring that the election results of October 7, 2008 are valid and binding in accordance with the procedures so adopted by Resolution No. R-304042;

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

Subitem-C: (R-2009-556) ADOPTED AS RESOLUTION R-304399

Approving as constituting a representative Project Area Committee (PAC) for the North Bay Redevelopment Project Area Committee candidates, consisting of the persons named on the list of Project Area Committee as those receiving the highest number of votes;

Declaring that the election results of October 7, 2008, are valid and binding in accordance with the procedures so adopted by Resolution No. R-289249;

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

STAFF SUPPORTING INFORMATION:

Council authorized a one-year extension of the PACs and directed Redevelopment Agency staff to notice and conduct an election for the City Heights, College Community, and North Bay Redevelopment Area PACs in 2008 by Resolution Nos. R-304041, R-304042, and R-304043 on September 2, 2008.

On October 13, 2008, the City Heights PAC conducted its Annual Election and meeting in accordance with the PAC Formation Procedures and PAC Bylaws. Nine vacancies were available to be filled at the Annual Election. The vacant categories included: two (2) Residential Tenants; three (3) Residential Owner Occupants; one (1) Business Owner with a business located south of Polk Avenue; and, three (3) Community Organizations At-Large representatives. The results of the October 13, 2008, City Heights PAC Election are listed in Exhibit A.

On October 7, 2008, the College Community PAC conducted its Annual Election and meeting in accordance with the PAC Formation Procedures and PAC Bylaws. Six vacancies were available to be filled at the Annual Election. The vacant categories included: one (1) Residential Tenant; one (1) Residential Owner Occupant; one (1) Business Owner; one (1) Student Enrolled in SDSU; one (1) Sorority Representative; and, one (1) Representative from an Existing Community Organization. Two of the six PAC vacancies were filled at the Annual Election: the sorority representative and the SDSU student representative. The other seats did not have candidates and are therefore vacant. The results of the October 7, 2008, College Community PAC Election are listed in Exhibit B.

On October 7, 2008, the North Bay PAC conducted its Annual Election in accordance with the PAC Formation Procedures. Twelve (12) seats were available and advertised to be filled at the Annual Election. The vacancies were in the following categories: three (3) Residential Tenants; five (5) Business/Property Owners; and, four (4) Community Organizations. Of the 12 available PAC seats, eight seats (one residential tenant, two community organizations, and five business/property owners) did not have candidates and remain vacant. Candidates were elected to the remaining four seats. Of the four people elected, two are incumbents and two have been elected to the PAC for the first time. The results of the October 7, 2008, North Bay PAC Election are listed in Exhibit C.

At the time of the writing of this report, no protests or communications regarding the City Heights, College Community and/or North Bay PAC elections have been received. If any protests or communications are submitted, they will be reported to the Council and made available for public review at the Public Hearing. In accordance with the PAC Formation Procedures, City Council ratification of the Annual Election results is required.

FISCAL CONSIDERATIONS:

None. Administration of the Project Area Committees is funded through the Redevelopment Agency Annual Project Budget.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Redevelopment Agency staff made it a priority to ensure that all affected residents and businesses of the City Heights, College Community, and North Bay Redevelopment Project Areas were informed of the respective PAC Elections. Approximately 28,500 election notices and project area maps were mailed to the City Heights Project Area, 800 to the College Community Project Area, and 7,000 to the North Bay Project Area. In addition to the mailings, notices were posted and/or distributed throughout the Project Areas.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

City Heights community, College Community, Clairemont, Linda Vista, Old San Diego, Mission Valley, Midway, Pacific Corridor Highway, Peninsula, and Uptown.

Weinrick/Anderson

Staff: Karina Danek - (619) 236-6537
Kendall D. Berkey - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-128: Appointment to the La Jolla Shores Planned District Advisory Board.

(See memorandum from Mayor Sanders dated 10/31/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-590) ADOPTED AS RESOLUTION R-304400

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the La Jolla Shores Planned District Advisory Board, for a term ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Jane Potter (La Jolla, District 1) (Replacing Lorraine Pedowitz, who has resigned)	April 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

- * ITEM-129: Drainage Easement Vacation within a Portion of Lots 8, 15, and 16, Block 6 of Map 1216 of La Jolla Strand. (La Jolla Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-534) ADOPTED AS RESOLUTION R-304401

Finding the drainage easement to be abandoned herein does not contain public utility facilities or does not contain active public utility facilities that would be affected by the abandonment, pursuant to California Streets and Highways Code 8300 et seq., (and specifically Sections 8333 and 8335), and San Diego Municipal Code Section 125.10109(c);

Finding the easement has been superseded by relocation and there are no other public facilities located within the easement;

Finding there is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated;

Finding the public will benefit from the action through improved utilization of the land made available by the abandonment;

Finding the abandonment is consistent with any applicable land use plan; and

Finding the public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the easement was acquired no longer exists;

Finding the drainage easement located within Lot 8, 15, and 16, Block 6 of Map 1216 of La Jolla Strand as more particularly described in the legal description marked as Exhibit "A," and as shown on Drawing No. 20321-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered summarily abandoned;

Declaring 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 abandoned public service easement shall no longer constitute a public service easement. Upon such recordation, the abandonment is complete.

STAFF SUPPORTING INFORMATION:

This drainage easement vacation is located in the La Jolla Community Plan area, on the east side of La Jolla Boulevard north of Gravilla Street. It is proposed to construct a three-story hotel building with an underground parking structure. At the time of construction, the existing storm drain will be demolished. This project consists of vacating an unneeded drainage easement required for site development that was granted at no cost to the City per deed recorded December 13, 1928, in Book 1564, Page 154 of Deeds. According to as-built improvement plan numbers 2763-D and 10426-D, the storm drain connection to the existing storm drain onto subject property was abandoned approximately 50 years ago. Currently, drainage on Electric Avenue, on the east side of the property, is directed into an existing catch basin in the middle of the street (Engineering Drawing No. 10426-D) and is piped northerly to an existing 45-inch RCP draining to the west. The subject property currently sheet flows to the west onto La Jolla Boulevard. The existing facilities located within this easement have been superseded with a new drainage system as shown on Engineering Drawing No. 33508-D. There are no other public facilities located within the easement, and there is no present or prospective public use of the existing easement in its present location.

FISCAL CONSIDERATIONS:

There are no fiscal impacts in connection with this action. All costs are being paid by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 4, 2005, the La Jolla Community Planning Association approved this project.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

La Jolla Palms Limited Partnership

Broughton/Anderson

Staff: G. Bollenbach - (619) 446-5417
Marianne Greene - Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-130: Reappointments to the San Diego Convention Center Corporation Board of Directors.

(See Mayor Sanders memorandum dated 10/20/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-552) ADOPTED AS RESOLUTION R-304402

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the San Diego Convention Center Corporation Board, for terms ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Cheryl Kendrick (Point Loma, District 2) (Reappointment)	December 1, 2011

(Reappointment)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-132: Reappointment to the Relocation Appeals Board.

(See memorandum from Mayor Sanders dated 10/20/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-553) ADOPTED AS RESOLUTION R-304404

Council confirmation of the following reappointment by the Mayor of the City of San Diego, to serve as a member of the Relocation Appeals Board, for a term ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Douglas Mooney (San Carlos, District 7) (Reappointment)	October 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-133: Appointment and Reappointment to the Housing Commission.

(See memorandum from Mayor Sanders dated 10/27/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-569) ADOPTED AS RESOLUTION R-304405

Council confirmation of the following appointment and reappointment by the Mayor of the City of San Diego, to serve as members of the San Diego Housing Commission, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Allen Sims (Linda Vista, District 6) (Replacing Alice Tumminia, who resigned)	Tenant of Housing Authority Unit over 62 years of age	January 2, 2010
Khadija Basir (Paradise Hills, District 4) (Reappointment)	Tenant of Housing Authority Unit	January 2, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-134: Appointment to the Funds Commission.

(See memorandum from Mayor Sanders dated 10/30/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-576) ADOPTED AS RESOLUTION R-304406

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Funds Commission, for a term ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
David Walter (Allied Gardens, District 7) (Replacing Sally Salazar, who has resigned)	January 28, 2012

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-135: Appointment to the Human Relations Commission.

(See memorandum from Mayor Sanders dated 10/22/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-554) ADOPTED AS RESOLUTION R-304407

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Human Relations Commission Board, for a term ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Gracia Molina de Pick (La Jolla, District 1) (Replacing Alejandro Balvaneda, who is not seeking reappointment)	July 22, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-136: Appointment to the Sustainable Energy Advisory Board.

(See memorandum from Mayor Sanders dated 10/27/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-571) ADOPTED AS RESOLUTION R-304408

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Sustainable Energy Advisory Board, for a term ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Risa Baron (Normal Heights, District 3) (Replacing Teresa Farrelly, who is not seeking reappointment)	San Diego Gas & Electric Company	March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-137: Appointment to the Historical Resources Board.

(See memorandum from Mayor Sanders dated 10/28/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-591) ADOPTED AS RESOLUTION R-304409

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Historical Resources Board, for a term ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Linda Marrone (La Jolla, District 1) (Replacing Dolores McNeely, who has resigned)	At-Large/ Real Estate	March 1, 2009

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-138: Amending the 2008 Legislative Calendar to Add a Meeting of the Natural Resources and Culture Committee on December 3, 2008.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-545) ADOPTED AS RESOLUTION R-304410

Amending the schedule of meetings for the City Council and Standing Committees, and Council Budget Hearings of the City Council for the period January 1, 2008, through December 31, 2008, a copy of which is on file in the Office of the City Clerk as Document No. RR-303207, and known as the 2008 Legislative Calendar, to add a meeting of the Committee on Natural Resources and Culture, to be held Wednesday, December 3, 2008, at 9:00 a.m.;

Directing the City Clerk to post and publish, as necessary, the notice of the meeting with the date, time, and location and make necessary preparations and arrangements for the meeting.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-139: Conflict of Interest Code for General Services Department. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-215) ADOPTED AS RESOLUTION R-304411

Adopting a Conflict of Interest Code for the General Services Department, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the General Services Department as adopted be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the General Services Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the General Services Department becomes effective upon the date of adoption of this Resolution.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The General Services Department code has been revised to reflect the restructuring of General Services for Fiscal Year 2009. Changes to division titles include Equipment Division becoming Fleet Services Division and Facilities Maintenance Division becoming simply Facilities Division.

With recent restructuring, Communications Division was added to General Services. As a result the following positions were added to General Services Department: Communications Division Deputy Director, Senior Communications Engineer, and Senior Communications Technician Supervisor. Due to other restructuring, the positions of Assistant Department Director, Project Officer II, Information Systems Analyst IV, and Assistant/Associate Civil Engineer have also

been added to Appendix A. The following positions have been removed because they no longer exist in the department or do not serve in their previous capacity: Building Services Supervisor, Offset Press Supervisor, Graphic Design Supervisor, and Multimedia Production Coordinator. No changes were made to the disclosure categories contained in Appendix B.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

Sierra/Jarrell

Staff: Kristy Reeser - (619) 525-8553
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-140: Conflict of Interest Code for San Diego Convention Center Corporation.
(Citywide.)

SAN DIEGO CONVENTION CENTER CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-380) . ADOPTED AS RESOLUTION R-304412

Adopting a Conflict of Interest Code for the San Diego Convention Center Corporation, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A

showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the San Diego Convention Center Corporation as adopted be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the San Diego Convention Center Corporation shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the San Diego Convention Center Corporation becomes effective upon the date of adoption of this resolution.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The San Diego Convention Center Corporation's code has been revised to:

- 1) Revise Appendix A to include "Balboa Theatre" in the jurisdiction section;
- 2) Added the position of "Senior Vice President, Sales and Marketing;"
- 3) Deleted the positions of (a) "Senior Vice President and Chief Operating Officer," (b) "Vice President and General Counsel," and (c) "Associate General Counsel;"
- 4) Revised the title of "Vice-President, Human Resources" to "Vice President, Human Resources/Labor Relations;"
- 5) Revised the title of "President and Chief Operating Officer - San Diego Theatres, Inc." to "President and Chief Executive Officer-San Diego Theatres, Inc."

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Wallace

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-141: Conflict of Interest Code for the Southeastern Economic Development Corporation (SEDC). (Citywide.)

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

Adopt the following resolution:

(R-2009-225) ADOPTED AS RESOLUTION R-304413

Adopting a Conflict of Interest Code for the Southeastern Economic Development Corporation, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Southeastern Economic Development Corporation as adopted be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Southeastern Economic Development Corporation shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Southeastern Economic Development Corporation becomes effective upon the date of adoption of this Resolution.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87306.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. SEDC's code has been revised to: remove and/or add designated positions.

King/Trotier

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-142: Conflict of Interest Code for the Park and Recreation Department. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-219) ADOPTED AS RESOLUTION R-304414

Adopting a Conflict of Interest Code for the Park and Recreation Department, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Park and Recreation Department as adopted be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Park and Recreation Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Park and Recreation Department becomes effective upon the date of adoption of this resolution.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The Park and Recreation Department codes have been revised to reflect organization changes which have occurred since 2006 when they were last updated. The following positions have been removed: Assistant to the Director, Development Officer, Golf Operations Manager and Assistant Golf Operations Manager. The following positions have been added: Assistant Director, Golf Course Manager, Zoning Investigator, Administrative Service Program Manager, and Biologist.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

LoMedico/Heap

Staff: Patty Jencks - (619) 235-5524
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-143: Conflict of Interest Code for the Office of the City Treasurer. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-226) ADOPTED AS RESOLUTION R-304415

Adopting a Conflict of Interest Code for the Office of the City Treasurer, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Adopting a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Office of the City Treasurer;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Office of the City Treasurer shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Office of the City Treasurer becomes effective upon the date of adoption of this resolution.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The Office of the City Treasurer's code has been revised to include the Accountant IV position which had not been previously designated, and change the existing title of Collections Revenue Supervisor to Revenue collections Supervisor and update the description of duties for this position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Granewich

Staff: Anabel Holmstrom (619) 533-6483
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-144: Conflict of Interest Code for City Council, Council Administration, and Independent Budget Analyst. (Citywide.)

COUNCIL ADMINISTRATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-208) ADOPTED AS RESOLUTION R-304416

Declaring that a Conflict of Interest Code for the City Council, Council Administration, and the Office of the Independent Budget Analyst, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the City Council, Council Administration, and the Office of the Independent Budget Analyst as adopted be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the City Council, Council Administration, and the Office of the Independent Budget Analyst shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements.

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the City Council, Council Administration, and the Office of the Independent Budget Analyst becomes effective upon the date of adoption of this resolution.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The City Council, Council Administration and Independent Budget Analyst code has been revised to include the Deputy Director, Independent Budget Analyst position which had not been previously designated; update the duties of the designated position; and update the required filing categories for the designated position as it relates to the disclosure of income and gifts from sources located in or doing business with the City.

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

Peters

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-145: Conflict of Interest Code for the Administration Department. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-202) ADOPTED AS RESOLUTION R-304417

Adopting a Conflict of Interest Code for the Administration Department, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Administration Department as adopted be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Administration Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Administration Department becomes effective upon the date of adoption of this resolution.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The Administration Department codes have been revised to include new positions which had not been previously designated, remove positions previously

designated but now more appropriated included in other City's department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Fischle-Faulk/Goldstone

Staff: Debra Fischle-Faulk - (619) 533-6387
Sharon B. Spivak- Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-146: Conflict of Interest Code for Environmental Services Department. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-212) ADOPTED AS RESOLUTION R-304418

Adopting a Conflict of Interest Code for the Environmental Services Department, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Environmental Services Department as adopted be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Environmental Services Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Environmental Services Department becomes effective upon the date of adoption of this resolution.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The Environmental Services Department code has been revised to include a new position (Information Systems Administrator) which had not been previously designated, abolished position (Assistant to the Director) previously included in the Department's Conflict of Interest Code.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Gonaver/Heap

Staff: Kate Clayton - (858) 492-5082
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-147: Jerry Magee Day.

COUNCIL PRESIDENT PETERS' AND COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-562) ADOPTED AS RESOLUTION R-304419

Commending Jerry Magee for his exceptional and professional commitment to excellence in sports journalism;

Proclaiming October 29, 2008, as "Jerry Magee Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-148: Water Department Heroes Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-563) ADOPTED AS RESOLUTION R-304420

Commending Michael Smith, David Koonce, and Chris Mondestin for their selfless and heroic efforts;

Proclaiming October 16, 2008, as "Water Department Heroes Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-149: Sanford Consortium of Regenerative Medicine Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-600) ADOPTED AS RESOLUTION R-304421

Commending the success of the Sanford Consortium for Regenerative Medicine and its dedication to improving the lives of others through scientific discovery;

Proclaiming November 18, 2008, as "Sanford Consortium of Regenerative Medicine Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-150: Kathleen Finn Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-453) ADOPTED AS RESOLUTION R-304422

Commending and thanking Kathleen Finn for the contributions she has made to the City of San Diego's Talmadge Community;

Proclaiming October 11, 2008, as "Kathleen Finn Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-151: Michael Dudley Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-456) ADOPTED AS RESOLUTION R-304423

Commending Michael Dudley for the contributions he has made to the City of San Diego's HIV/AIDS-afflicted community;

Proclaiming October 21, 2008, as "Michael Dudley Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-152: George W. Marston Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-508) ADOPTED AS RESOLUTION R-304424

Commending George W. Marston for the contributions he made to San Diego's jewel – Balboa Park;

Proclaiming October 28, 2008, to be "George W. Marston Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-153: The Thursday Club Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-507) ADOPTED AS RESOLUTION R-304425

Commending The Thursday Club for the contributions it has made to San Diego's jewel – Balboa Park;

Proclaiming October 28, 2008, to be "The Thursday Club Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. -- 10:16 a.m.)

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

* ITEM-154: Brian Schoenfisch Day.

COUNCILMEMBER MAIENSCHAINS RECOMMENDATION:

Adopt the following resolution:

(R-2009-488) ADOPTED AS RESOLUTION R-304426

Proclaiming October 29, 2008, as "Brian Schoenfisch Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. -- 10:16 a.m.)

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

* ITEM-155: Marie Graver Day.

COUNCILMEMBER MAIENSCHAINS RECOMMENDATION:

Adopt the following resolution:

(R-2009-559) ADOPTED AS RESOLUTION R-304427

Proclaiming November 19, 2008, as "Marie Graver Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-156: Clairemont's Official Birthday.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-475) ADOPTED AS RESOLUTION R-304428

Proclaiming October 16, 1950, to be Clairemont's official birth date from this day forward, and shall be celebrated annually on the third Sunday in October;

Proclaiming October 16, 1950, as "Clairemont's Official Birthday" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-157: Cyber Security Awareness Month.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-303) ADOPTED AS RESOLUTION R-304429

Encouraging the citizens of San Diego to learn about cyber security and to put that knowledge into practice in their homes, schools, workplaces, and businesses and proclaiming October 2008, as "Cyber Security Awareness Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-158: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-426) ADOPTED AS RESOLUTION R-304430

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: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-159: 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-2009-611) ADOPTED AS RESOLUTION R-304431

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: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-160: 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-2009-5) ADOPTED AS RESOLUTION R-304432

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: 10:14 a.m. – 10:16 a.m.)

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

* ITEM-161: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-13) ADOPTED AS RESOLUTION R-304433

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: 10:14 a.m. – 10:16 a.m.)

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

ITEM-207: Two actions related to Proposed Water Rate Increases to Offset the Increase in Rates Charged by San Diego County Water Authority (CWA) and to Fund an Indirect Potable Reuse Demonstration Project.

(See Report to the City Council No. 08-167.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-619) ADOPTED AS RESOLUTION R-304434

Declaring that the proposed water rate increases, as referenced in the water rate tables contained within the Proposition 218 Notice and consistent with the Report to City Council, are approved, as follows:

- a. A water rate increase of 8.50% applied to all customer classes and tiered consumption rates equally in order to offset the increase in the wholesale cost of water purchased by the City from CWA, effective January 1, 2009; and
- b. A water rate increase of \$0.20 per equivalent dwelling unit based upon meter size as related to the increase in the wholesale cost of water purchased by the City from CWA, effective January 1, 2009;
- c. A temporary water rate increase of 3.08% applied to all customer classes and tiered consumption rates equally in order to fund an Indirect Potable Reuse Demonstration Project.

Subitem-B: (R-2009-625) ADOPTED AS RESOLUTION R-304435

Declaring that based on the Report to the City Council, none of the revenue from the CWA pass through water rate increases will be used to fund capital projects for the expansion of the water system;

Declaring that the CWA pass-through water rate increases will allow the City to maintain cost/revenue neutrality and to maintain consistency with the City's previously approved 4-year water rate plan;

Declaring that water commodity rates will be temporarily increased for a period of approximately 18 months starting January 1, 2009 in order to raise \$10,711,000 of additional revenue required to pay for the Project;

Declaring based on the foregoing findings, the Council of the City of San Diego finds that the water rate increases approved pursuant to Resolution Number R-_____ are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273(a).

STAFF SUPPORTING INFORMATION:

On April 24, 2008, the CWA Board of Directors ("CWA Board") adopted the 2008 Long Range Financing Plan update, which included updates to CWA's cost of water, capital improvement program, and other economic assumptions which would affect water purchase rates being charged to their participating agencies. On June 26, 2008, CWA staff made a presentation to the CWA Board disclosing the need for a rate increase based on the additional infrastructure, operations, maintenance, and water purchase costs. At that meeting the CWA Board approved the rate increase recommendation. As a result, on January 1, 2009, CWA will be increasing the rates for water purchases to all their participating agencies, including the City of San Diego.

On January 1, 2009, the City intends to increase the currently effective Water system rates and fees across all customer classes in order to pass through the increased wholesale water purchase costs from CWA. The commodity fee will increase by 8.50% per HCF of water usage for all customer classes and the base fee will increase by \$0.20 per equivalent dwelling unit, based upon meter size. For the typical single family residence customer using 14 HCF per month, the fee increases due to the CWA pass-through costs will add approximately \$3.31 to the monthly water bill. This will be a 6.26% increase in the current water bill.

At the July 28, 2008, meeting of the City Council, staff was directed to develop the rate increase necessary to fund an Indirect Potable Reuse (IPR) Demonstration Project. On September 8, 2008, City staff returned to the City Council with a proposed Proposition 218 Notice which included both the rate increase associated with the CWA pass-through and a rate increase to fund the IPR Demonstration Project. At the September 8, 2008, City Council meeting, the City Council authorized the mailing of the Proposition 218 Noticing which outlined the proposed rate increases related to the CWA pass-through and the IPR Demonstration Project. The Proposition 218 Notices were mailed to property owners of record and City of San Diego water customers on October 1, 2008 and October 2, 2008. As outlined, the IPR demonstration project is estimated to cost \$11,811,000. This amount includes costs for project management; the establishment of an Independent Advisory Panel of scientific and technical experts to advise on the development and implementation of the project; cost of design, construction, and equipment; conceptual design of

a conveyance pipeline; and a public outreach and education component. In order to fund the demonstration project, an increase in the commodity rate for all water customers equally would be required.

This increase would be 3.08% if the previously described CWA pass-through increase was also approved. In the event the CWA pass-through is not approved, a 3.26% increase to the commodity charge would need to be applied to all customers equally in order to provide the revenue necessary to support the IPR demonstration project. The proposed increase would generate \$10.7 million in revenue. The remaining \$1.1 million in project costs will be reimbursed through a grant provided by Proposition 50 funding.

FISCAL CONSIDERATIONS:

The increased revenue from the approval of these actions will offset the increase in the cost of purchased water from CWA and fund the IPR Demonstration Project.

PREVIOUS COUNCIL COMMITTEE ACTION:

CWA rate increase: At the July 28, 2008, City Council meeting, the Water Department presented information on the Proposition 218 Notice requirements for the CWA water rate increase. On September 8, 2008, staff presented a combined Proposition 218 notice to include the CWA rates and rates for the IPR/RA Demonstration Project.

Demonstration Project: The Water Reuse Study report was presented to the NR&C on July 26, 2006. An evening public workshop, sponsored by NR&C, was held on October 27, 2006. A presentation on the Water Reuse Study and Recycled Water Master Plan was made to the City Council on October 29, 2007. At this meeting, the Council voted to receive the Water Reuse Study Final Draft report and directed staff to develop a plan to implement the Reuse Study's NC-3 strategy. The Mayor vetoed this action, and the City Council's vote on this was reaffirmed on December 3, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Proposition 218 notices were mailed on October 1, 2008 and October 2, 2008.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The Water Department's customer base and property owners were mailed notice that the City Council will hold a public hearing on November 17, 2008, to consider adoption of the proposed increase to the existing water fees and rates.

This notice also informed the customers how to register a protest against these rate increases. If adopted, the adjusted fees and rates would become effective January 1, 2009.

Ruiz/Barrett

Staff: Rod Greek - (619) 980-5928
Raymond C. Palmucci - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:20 a.m. – 11:35 a.m.)

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

MOTION BY HUESO TO ADOPT THE PORTION RELATING TO THE INDIRECT POTABLE REUSE. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-nay, Atkins-yea, Young-nay, Maienschein-nay, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-210: Palladium at Aero, Project No. 148904. A Rezone of the property, General Plan and Kearny Mesa Community Plan Amendment, Public Right-Of-Way Vacation, Vesting Tentative Map and Site Development Permit to subdivide and develop 412 multiple family dwelling units and 5,190 square feet of commercial development on a 7.52 acre site located at 8655 Aero Drive. (Kearny Mesa Community Plan Area. District 6.)

Matter of approving, conditionally approving, modifying or denying a Rezone of the property from the IP-2-1 Zone to the RM-3-9 Zone, General Plan and Kearny Mesa Community Plan Amendment, Public Right-Of-Way Vacation, Vesting Tentative Map and Site Development Permit to subdivide and develop 412 multiple family dwelling units and 5,190 square feet of commercial development on a 7.52 acre site located at 8655 Aero Drive within the Kearny Mesa Community Plan.

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

STAFF'S RECOMMENDATION:

Take the following actions in Subitems A, C, D, and E, and introduce the ordinance in subitem B:

Subitem-A: (R-2009-604) ADOPTED AS RESOLUTION R-304437

Certifying that the information contained in Mitigated Negative Declaration No. 148904 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administration Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City Council;

Declaring that the City Council of the City of San Diego finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is attached hereto and incorporated by reference, is hereby approved;

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

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding this project;

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

Subitem-B: (O-2009-73) INTRODUCED, TO BE ADOPTED TUESDAY,
DECEMBER 2, 2008

Changing 9.32 acres located at 8655 Aero Drive, within the Kearny Mesa Community Plan Area, in the City of San Diego, California, from the IP-2-1 Zone

into the RM-3-9 Zone, as defined by San Diego Municipal Code Section 131.0406; and repealing Ordinance No. O-18478 (New Series), adopted April 7, 1998, of the Ordinances of the City of San Diego insofar as the same conflict herewith;

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

Subitem-C: (R-2009-603)

ADOPTED WITH DIRECTION AS
RESOLUTION R-304438

Declaring that the City Council of the City of San Diego adopts the amendments to the Kearny Mesa Community Plan, a copy of which is on file in the Office of the City Clerk;

Declaring that the City Council adopts and amends the General Plan for the City of San Diego to incorporate the above amended plan;

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

Declaring that the City Council of the City of San Diego adopts the findings with respect to Vesting Tentative Map (VTM) No. 524641, including the waiver of the requirement to underground existing overhead utilities and Public Right-of-Way Vacation No. 524640;

Declaring that said findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference;

Based on the Findings hereinbefore adopted by the Council of the City of San Diego, VTM No. 524641 and Public Right-of-Way Vacation No. 524640, and granting to Westcore Sandrock, LLC, Subdivider;

Declaring that pursuant to California Government Code Section 66434(g), portions of Aero Drive and Sanrock Road, located within the project boundaries as shown in VTM No. 624641, shall be vacated, contingent upon the recordation of the approved final map for the project and that said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference;

Sustaining the recommendation of the Planning Commission, for VTM No. 524641 and Public Right-of-Way Vacation No 524640 and granting to Westcord Sandrock, LLC, subject to the conditions attached hereto and made a part hereof;

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

Subitem-D: (R-2009-601) GRANTED MAP/ADOPTED AS
RESOLUTION R-304439

Declaring that the City Council of the City of San Diego adopts the findings with respect to Vesting Tentative Map (VTM) No. 524641, including the waiver of the requirement to underground existing overhead utilities and Public Right-of-Way Vacation No. 524640;

Declaring that said findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference;

Based on the Findings hereinbefore adopted by the Council of the City of San Diego, VTM No. 524641 and Public Right-of-Way Vacation No. 524640, and granting to Westcore Sandrock, LLC, Subdivider;

Declaring that pursuant to California Government Code Section 66434(g), portions of Aero Drive and Sanrock Road, located within the project boundaries as shown in VTM No. 624641, shall be vacated, contingent upon the recordation of the approved final map for the project and that said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference;

Sustaining the recommendation of the Planning Commission, for VTM No. 524641 and Public Right-of-Way Vacation No 524640 and granting to Westcord Sandrock, LLC, subject to the conditions attached hereto and made a part hereof;

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

Subitem-E: (R-2009-602) GRANTED PERMIT/ADOPTED WITH
DIRECTION AS RESOLUTION R-304440

Declaring that the City Council of the City of San Diego adopts the findings with respect to Site Development Permit (SDP) No. 524637

Declaring that said findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference;

Sustaining the recommendation of the Planning Commission, for SDP No. 524637 and granting to Westcore Sandrock, LLC, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof;

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

OTHER RECOMMENDATIONS:

Planning Commission on October 23, 2008, voted 4-2-1 to approve this project with specific direction to improve the Streetscape Design Guidelines for Aero Drive.

Ayes: Schultz, Ontai, Otsuji, Nasland
Nays: Golba, Griswald
Not Present: Smiley

The Kearny Mesa Planning Group voted, on September 17, 2008, 7-1-1 to approve the proposed actions.

On September 18, 2008, the Serra Mesa Community Planning Group voted 10-1-0 to deny the project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

A Rezone, General Plan and Kearny Mesa Community Plan Amendment, Public Right-Of-Way Vacation, Vesting Tentative Map and Site Development Permit to develop 412 apartment units and approximately 5,190 square feet of retail development on a 7.52 acre site located at 8655 Aero Drive within the Kearny Mesa Community Plan.

STAFF RECOMMENDATION:

1. **Certify** Mitigated Negative Declaration 148904, and **adopt** the Mitigation Monitoring and Reporting Program; and

2. **Approve** Rezone No. 524639, General Plan and Kearny Mesa Community Plan Amendment No. 524638, Public Right-Of-Way Vacation No. 524640, Vesting Tentative Map No. 524641, and Site Development Permit No. 524637.

EXECUTIVE SUMMARY:

The General Plan and Kearny Mesa Community Plan Amendment would designate the site for multiple family unit residential use. The site, located immediately south of Montgomery Field along Aero Drive, is adjacent to commercial, industrial and residential uses.

The 7.52 acre site is at 8655 Aero Drive within the existing IP-2-1 Zone (proposed RM-3-9 Zone) of the Kearny Mesa Community Plan.

The proposed Palladium at Aero project would demolish the existing structures and develop a 412 apartment unit project with 5,190 square feet of retail development on a 7.52 acre site located at 8655 Aero Drive within the Kearny Mesa Community Plan. Forty-two units of the proposed 412 apartment units, or ten percent of the total dwelling units provided, would be set aside as affordable to persons earning no more than sixty-five percent of the area median income. The project would add to the availability of affordable work-force housing in the community and in the City at large. The project proposes two deviations: 1) to allow installation of photovoltaic panels on structures on the roof deck of the parking garage to generate electricity and to shade the parking structure roof deck in lieu of planting trees in containers on the deck, and 2) to deviate from the street side yard setback along Aero Drive to allow a setback of thirty feet rather than forty-six feet six inches.

FISCAL CONSIDERATIONS:

No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Kearny Mesa Community Planning Group voted, on September 17, 2008, 7:1:1 to approve the proposed actions. On September 18, 2008, the Serra Mesa Planning Group voted 10:1:0 to recommend denial. On October 16, 2008, the Planning Commission heard public testimony and discussed the project. The Commission continued the item to October 23, 2008, to allow the applicant time to revise the project design. On October 22, 2008, the Serra Mesa Planning Group voted a second time 5:2:0 to recommend denial.

Per the Commissioner's October 16th suggestions, the applicant revised the design which reduced the height of the building to eliminate the request for a height deviation, revised the Site Plan to

open some of the courtyards to the street by creating visual and physical connections to the sidewalk, relocated the pool from the west to the east side of the site, and added photovoltaic panels to structures on the roof deck of the parking structure. Along the west elevation the building was revised to increase architectural interest by adding balconies and patios, created two architectural styles, and opened an interior courtyard to the west. Along the east elevation the building was lowered from four to three stories and lowered to two stories at the southeast corner, created two architectural styles by the use of detailing, and opened an interior courtyard to the sidewalk along Sandrock Road. Along the north elevation the building was altered to visually open an interior courtyard to the Aero Drive sidewalk. The south elevation was not altered.

The applicant also proposed evergreen and deciduous tree species for the plant palette along the southerly property line with an undulating tree placement to avoid a linear line of trees. On October 23, 2008, the Planning Commission again heard the item and took public testimony in favor and in opposition. At the conclusion of public testimony and discussion by the Commissioners, the Commission made a motion to move Staff's recommendation and to direct staff and the applicant to continue to improve the content of the Urban Design, Streetscape and Streetyard Guidelines for Aero Drive. The improvements would address: entry points into Kearny Mesa and Serra Mesa communities; irrigation and plant palette coordination to assure compatibility; no monoculture tree species along Aero Drive to assure viability, health, interest, walkability and pedestrian experience. And lastly, medians in the right-of-way less than seven feet wide should explore materials more agreeable to the environment other than concrete and medians fourteen feet in width should integrate the design of the median and parkway planting to slow traffic to create a safer environment. The motion passed by a vote of 4:2:0.

KEY STAKEHOLDERS: Westcore Sandrock, LLC

Broughton/Anderson/JF

LEGAL DESCRIPTION:

The site is located at 8655 Aero Drive within the Kearny Mesa Community Plan Area (Lots 3, 4 and 5 of Research Park Subdivision Addition, Map No. 6386, filed June 12, 1969). The site is not included on any Government Code Listing of hazardous waste sites.

NOTE: October 2008 Update:

Several corrections/additions have been made to the environmental document that do not effect the analysis or conclusions. The changes are shown in standard strikeout/underline format.

Staff: John Fisher – (619) 446-5231

Nina Fain – Deputy City Attorney

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

FILE LOCATION: SUBITEMS A, C & E: MEET
SUBITEM B: NONE
SUBITEM D: STRT-J-2993 (39)

COUNCIL ACTION: (Time duration: 11:36 a.m. – 12:00 p.m.
2:08 p.m. – 2:26 p.m.)

MOTION BY FRYE TO REMOVE APPENDIX A FROM THE KEARNY MESA COMMUNITY PLAN AMENDMENT, STREETSCAPE DESIGN GUIDELINES, OF SUBITEM C UNTIL IT HAS BEEN THOROUGHLY REVIEWED BY THE SERRA MESA AND KEARNY MESA COMMUNITY PLANNING GROUPS; AND TO BRING BACK TO THE CITY COUNCIL IN FEBRUARY OR MARCH OF 2009.

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.

Motion by Frye to not approve the resolutions in Subitems A, C, D and E, and not introduce the ordinance in Subitem B. Return the project to the applicant to reduce the scale of the project and return to Council at a later date. Second by Young. Failed. Yeas – 4, 6; Nays – 1, 2, 3, 5, 7, 8.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A, C, D AND E, AND TO INTRODUCE THE ORDINANCE IN SUBITEM B AS FOLLOWS: 1) CERTIFY THE MITIGATED NEGATIVE DECLARATION; ADOPT THE MITIGATION MONITORING AND REPORTING PROGRAM WITH APPROPRIATE FINDINGS; 2) APPROVE THE GENERAL PLAN AND KEARNY MESA COMMUNITY PLAN AMENDMENT WITH DIRECTION TO EXCLUDE APPENDIX A; 3) GRANT THE PUBLIC RIGHT-OF-WAY VACATION AND THE VESTING TENTATIVE MAP; 4) GRANT THE SITE DEVELOPMENT PERMIT WITH DIRECTION TO HAVE CONDITIONS 46 AND 47 DELETED AND INCLUDE A MINIMUM OF 50% OF USEABLE ROOF AREA SHALL BE USED FOR PHOTOVOLTAIC PANELS TO GENERATE ELECTRICITY FOR USE IN THE COMMON AREA; AND 5) APPROVE THE REZONE.

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

ITEM-330: Requiring Automated External Defibrillators in Specified Newly Constructed Buildings. (Citywide.)

(Maureen O'Connor's October 16, 2008, memorandum regarding Statistical Information; Maureen O'Connor's October 16, 2008, memorandum regarding Expected Costs; San Diego Project Heart Beat's Pricing Rates; City Attorney's Draft Ordinance; AED Scope/Applicability.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2009-28 Cor. Copy) INTRODUCED AS AMENDED WITH
DIRECTIONS, TO BE ADOPTED TUESDAY,
DECEMBER 2, 2008

Introduction of an Ordinance amending Chapter 14, Article 05, of the San Diego Municipal Code by adding Division 39, titled Automated External Defibrillators, and by adding Sections 145.3901, 145.3905, 145.3910, 145.3915, 145.3920, 145.3925, 145.3930, and 145.3935, all related to requirements for Automated External Defibrillators in Certain Newly Constructed Buildings.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 10/22/2008, Rules voted 5 to 0 to send this item forward to the full City Council with no recommendation, and to ask the City Attorney to incorporate the comments of the committee members into the ordinance. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.)

SUPPORTING INFORMATION:

Sudden Cardiac Arrest (SCA) is leading cause of death in this country with nearly 325,000 victims each year nationwide with two thirds of those deaths occurring without any prior indications of heart disease. SCA is an electrical problem, whereby arrhythmia prevents the heart from pumping blood to the brain and vital organs. Victims need to receive defibrillation from Automated External Defibrillators (AED's) within five minutes for best chance of survival.

The San Diego region currently has 4,000 AED units placed in private and public facilities with 52 victim's lives saved to date.

The purpose of this ordinance is to expand the presence of AED's and decrease medical response time to victims of SCA to make a significant lifesaving difference. AED devices have been demonstrated to be safe and effective, even when used by laypeople, since the devices are designed not to allow a user to administer a shock until after the device has analyzed the victim's heart rhythm and determined that an electric shock is required.

Certain newly constructed buildings would be required to have an AED installed based on occupancy load levels to optimally achieve a three minute response time to travel to person in need. Occupancy load threshold was determined by load factors in California Building Code. Development Services staff would issue the Certificate of Occupancy once inspection shows the AED requirement has been met.

This ordinance complies with current state law which dictates the requirements of AED use including a training component, annual maintenance, and user liability immunity. The State of California required AED training and maintenance is a self certification process after installation.

If the state Good Samaritan Law is extended or made permanent, the ordinance will remain in effect as long as the state law provides limits on liability.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On July 16, 2008: Rules Committee held a workshop on the proposal to require AED's in certain new construction.

ACTION: Motion by Councilmember Frye, second by Council President Pro Tem Madaffer, to direct the City Attorney and the Development Services Department to work together to draft the ordinance, address the comments and concerns of the Committee, and return to the Rules Committee on September 17, 2008.

VOTE: 4-0; Madaffer-yea, Peters-yea, Frye-yea, Hueso-yea, Young-not Present

September 17, 2008: Rules Committee heard an informational update from the Development Services Department and City Attorney regarding the Ordinance Proposed by Council President Pro Tem Madaffer requiring AED's in certain new construction.

VOTE: Info only. No vote was taken.

On October 22, 2008: Rules Committee heard a report from the Development Services Department and the City Attorney the regarding the Proposed Ordinance for mandatory AEDs in certain new construction.

ACTION: Motion by Council President Peters, second by Council President Pro Tem Madaffer, to send the item to the full City Council with no recommendation, and to ask the City Attorney to incorporate the comments of the committee members into the ordinance.

VOTE: 5-0; Madaffer-yea, Peters-yea, Frye-yea, Hueso-yea, Young-yea

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Workshop for stakeholders held by City on September 30, 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Building Owners and Managers, National Association of Industrial and Office Properties. Fiscal Impacts are considered to be approximately \$2,000 per AED including training and annual maintenance.

Lowe

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:27 p.m. – 3 :21 p.m.)

MOTION BY MADAFFER TO INTRODUCE AS AMENDED TO INCLUDE LANGUAGE UNDER SECTION 14.3915(C)(2), AUTOMATED EXTERNAL DEFIBRILLATORS SHALL BE LOCATED SUCH THAT THE MAXIMUM LENGTH OF VERTICAL TRAVEL BETWEEN ANY TWO AUTOMATED EXTERNAL DEFIBRILLATORS ON ANY TWO FLOORS WITH AN AUTOMATED EXTERNAL DEFIBRILLATOR SHALL NOT EXCEED 450 FEET; WITH DIRECTIONS TO HAVE INTERGOVERNMENTAL RELATIONS STAFF PERSUE MAKING THE GOOD SAMARITAN LAW PERMANENT IN THE NEXT LEGISLATIVE SESSION AND TO HAVE THE TECHNICAL ADVISORY COMMITTEE REVIEW THE ISSUE. 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-331: Reconsideration of City Council Resolution regarding As-Needed Agreement for Community Outreach Services with Katz and Associates vetoed by the Mayor on October 30, 2008.

(See Veto Memorandum from Mayor Sanders dated October 30, 2008.)

Pursuant to San Diego Charter Section 285, the Council shall reconsider Resolution R-2009-251, passed by City Council with a Unanimous vote on October 14, 2008, Item 102, which was vetoed by the Mayor on October 30, 2008. If after such reconsideration, at least five members of the Council vote in favor of passage, the resolution shall become effective notwithstanding the Mayor's veto.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-251) CONTINUED TO MONDAY, NOVEMBER 24, 2008

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Katz and Associates, for As-Needed Consultant Services related to community outreach services for the Engineering and Capital Projects Department in an amount not to exceed \$500,000, under the terms and conditions set forth in the Memorandum of Agreement (MOA);

Authorizing the expenditure of an amount not to exceed \$1,000 from Capital Outlay Fund 302453, CIP-37-064.0, Annual Allocation - Americans with Disability Act (ADA) Improvements for services to Bird Rock Elementary School ADA Upgrades, solely and exclusively, for the purpose of providing funds for the above MOA and related costs, provided that the City 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 budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15060(c)(3) and 15378(b)(5).

STAFF SUPPORTING INFORMATION:

The City currently does not have the capacity to perform community outreach services for various projects. A qualified and licensed consultant is being retained to provide this service. The City advertised the Contract and issued the Request for Proposal for As-Needed Community Outreach Services Agreement on August 20, 2007 in the San Diego Daily Transcript and in the City's website for bid and contract opportunities. Six (6) firms were short-listed to be interviewed by the interview/selection panel based on their proposal and evaluation criteria in the request for proposal.

On January 28-30, 2008, the short-listed firms were interviewed by the interview/selection panel. Katz and Associates was selected as one of two firms highly qualified following a competitive selection and procurement process completed in accordance with the policies, procedures and guidelines in the City Council Policy 300-7, Consultant Services Selection, and the City's Administrative Regulation 25.70 on hiring of consultants other than Architects and Engineers. The City will utilize the expertise of Katz and Associates in construction relations, media relations, community outreach, informational materials, in a timely and efficient manner. Katz and Associates has the expertise, experience and personnel necessary to provide the professional services on an as-needed, hourly fee basis. The City will pay Katz and Associates for performance of all Professional Services rendered in accordance with the Agreement, in an amount not to exceed \$500,000. Katz and Associates have no Subconsultants.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation: \$000,000 Certified Firms (00.0%)
\$000,000 Other Firms (00.00%)
Other: Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan, and adherence to the Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

The City will pay Katz and Associates for performance of all professional services rendered in accordance with this Agreement, in an amount not to exceed \$500,000. The City agrees to issue at least one Task Order with a minimum aggregate value of \$1,000 to Katz and Associates.

Funding for the minimum guarantee amount of \$1,000 will come from CIP-37-064.0, Annual Allocation - Americans with Disability Act (ADA) Improvements, Fund 302453, Capital Outlay, for the purpose of executing this Agreement. Future tasks will be funded from various City Department's budget.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

On October 14, 2008, City Council passed Resolution R-2009-251, Item 102, with a Unanimous vote. The item was vetoed by the Mayor on October 30, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Katz and Associates is being retained to provide these services for the Engineering and Capital Projects Department.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Upon approval of the Agreement, Katz and Associates could receive up to \$500,000.

Boekamp/Jarrell

Aud. Cert. 2900150.

Staff: James Nagelvoort - (619) 533-5110
Pedro De Lara, Jr. - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:31 p.m. – 3:38 p.m.)

MOTION BY HUESO TO CONTINUE TO MONDAY, NOVEMBER 24, 2008, FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-yea, Falconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-332: Neighborhood Stabilization Program – Plan Adoption for Submittal to the U.S. Department of Housing and Urban Development (HUD). (Districts 3, 4, 6, 7, 8 and Citywide.)

(See San Diego Housing Commission Report LUH-08-007.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-626 Corr. Copy) ADOPTED WITH DIRECTION AS
RESOLUTION R-304441

Accepting the Neighborhood Stabilization Program (NSP) entitlement funds from the U.S. Department of Housing and Urban Development (HUD), as a grantee, in the amount of \$9,442,370, for the purpose of acquiring, rehabilitating, and the re-sale of foreclosed or vacated/abandoned residential properties within a targeted "greatest needs" area(s) in the City of San Diego;

Authorizing the City Comptroller to appropriate and expend the NSP funds in the amount of \$9,442,370 from HUD, contingent upon certification of funds availability by the City Comptroller;

Adopting the Neighborhood Stabilization Program (NSP) Plan and adopting the resolution in order for the Plans' submittal to HUD be accomplished by the December 1, 2008 deadline;

Declaring that the Mayor or his designee may submit the Plan to HUD with any required affiliated documents.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 10/29/2008, LU&H voted 4 to 0 to forward this item to the full City Council. (Councilmembers Atkins, Maienschein, Madaffer, and Hueso voted yea.)

SUPPORTING INFORMATION:

On September 26, 2008, the U.S. Department of Housing and Urban Development (HUD) allocated a total of \$3.92 billion to all states in particularly hard-hit areas trying to respond to the effects of high foreclosures. HUD's new Neighborhood Stabilization Program (NSP) will provide targeted emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities.

The City of San Diego, as a grantee, is anticipated to receive \$9,442,370 in funding once the City submits a plan to HUD. This plan is submitted in the form of a Substantial Amendment to the City's FY09 Action Plan and is due to HUD no later than December 1, 2008. Funds are expected to be available by February 2009, must be fully obligated by June 30, 2010, and expended no later than December 31, 2012. The City of San Diego's allocation was determined based upon the number/percent of foreclosures, subprime mortgages and mortgage defaults and

delinquencies. HUD took a data driven approach to this process, relying on numerous data sets from government agencies and private sources.

The funding is provided through HUD's Community Development Block Grant (CDBG) Program under the Housing and Economic Recovery Act of 2008. The intention of NSP funds is to purchase foreclosed homes at a discount (an aggregate of 15% below current appraised value) and to rehabilitate or redevelop them in order to respond to rising foreclosures and falling home values. Grantees can accomplish the intent through such activities as: acquisition of land and property; demolish or rehabilitate abandoned properties; and/or to offer down payment and closing cost assistance to low- to moderate- income homebuyers (household incomes not exceed 120% of area median income (AMI)). In addition, HUD states NSP could also be used to create "land banks" ie: assembling, temporarily managing, and disposing of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property.

Due to the significant time constraints for grantees to utilize the funds (18 months), City staff in conjunction with the Housing Commission, recommends the City's Substantial Amendment for NSP is limited to the following activities: financing mechanism (down payment and closing cost assistance); acquisition rehabilitation and rental for households earning up to 50% AMI (required 25% of NSP funds); redevelop demolished or vacated properties; homebuyer education counseling; and program management (10% to cover planning, reporting and staffing the program.

FISCAL CONSIDERATIONS:

There is no net fiscal impact from this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Land Use and Housing Committee (October 29, 2008) - the San Diego Housing Commission's proposal for the NSP funds was approved by the committee.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This public hearing for the NSP Plan was noticed in the San Diego Union Tribune newspaper from October 31, 2008 through November 17, 2008. The information was also posted on the City of San Diego's website (www.sandiego.gov/cdbg).

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.
Paul F. Prather - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:49 p.m. – 5:03 p.m.)

MOTION BY HUESO TO ADOPT WITH DIRECTION TO HAVE THE HOUSING COMMISSION RETURN TO COUNCIL WITHIN 60 DAYS WITH A COMPREHENSIVE STRATEGY AND PROPOSAL. 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-333: Sale of City Owned Property to Anna Avenue Associates, LLC, and Execution of Grant of Easement and Grant Deed. (Morena Community Area. District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-531) ADOPTED AS RESOLUTION R-304436

Authorizing the Mayor, or his designee, to execute a grant of easement, for and on behalf of the City of San Diego, conveying to San Diego Gas & Electric (SDG&E) an easement for the purpose of a 2,920 square-foot underground easement, more particularly described in said Easement on file in the Office of the City Clerk;

Authorizing the Mayor, or his designee, to execute a Real Estate Purchase and Sale Agreement, and execute a Grant Deed, for conveyance of 30,200 square-foot parcel (APN 436-660-09, 10, and 34) in fee title to Anna Avenue Associates, LLC, more particularly described in said Grant Deed on file in the Office of the City Clerk;

Authorizing the City Comptroller to accept \$14,600 from San Diego Gas & Electric and accept \$25,000 from Anna Avenue Associates, LLC and deposit \$14,600 and \$25,000 into Capital Outlay Fund 302453 for a total of \$39,600.

STAFF SUPPORTING INFORMATION:

SDG&E recently installed the Otay-Metro Power Link underground electric transmission line. Through inadvertence, a section of the line was installed under a portion of unimproved City land located in the Linda Vista area, adjacent to MTS railway and Anna Avenue. SDG&E will require an easement from the City for the future maintenance and repair, etc. of the line.

In conjunction with an application for a street vacation, Anna Avenue Associates, LLC has offered to purchase City property located west of Mid City-MTDB and AMTRAK railroad right-of-way, north of the San Diego River Levy and east of Pacific Highway. The three (3) parcel site, (APN 436-660-09, 10, and 34) consisting of 30,200 square-feet (.69 acres) is encumbered with a complex series of intertwined utility easements.

Because of unusual limitations and encumbrances, the property cannot be improved with any buildings or structures. The only practical use the property is for surface vehicle parking. Anna Avenue Associates, LLC, the adjacent property owner, houses John Smith's Grading Co., who proposes to use this area for parking construction vehicles. Anna Avenue Associates, LLC proposes to make significant improvements to the property, including regrading for access, to correct drainage and improvements allowing for fire equipment access and turn around.

FISCAL CONSIDERATIONS:

\$25,000 to the City for sale of property deposited into General Capital Outlay Fund 302453.
\$14,600 for sale of easement to San Diego Gas & Electric Co. deposited into General Capital Outlay Fund 302453.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Sale of excess City land to benefit the Capital Outlay Fund.

Barwick/Anderson

Staff: Lane Mackenzie - (619) 236-6050
Todd Franklin Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:35 a.m. – 11:36 a.m.)

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

ITEM-334: Selection of a Council President for Calendar Year 2009.

(See memorandum from Council President Peters dated 11/3/2008, and memorandum from Councilmembers Faulconer, Maienschein, and Frye dated 11/3/2008.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

(R-2009-) CONTINUED TO MONDAY, DECEMBER 8, 2008

Council is asked to consider the matter of selecting a Council President for Calendar Year 2009, and to take such actions as the Council deems appropriate. These actions may include:

1. Select a new Council President for Calendar Year 2009;
2. Select an Interim Council President until a date certain;
3. Continued the matter of selection of a Council President for Calendar Year 2009 to a later date.

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:21 p.m. – 3:31 p.m.)

MOTION BY HUESO TO CONTINUE TO MONDAY, DECEMBER 8, 2008, AT 2:00 P.M. TO ALLOW THE NEW COUNCIL MEMBERS TO PARTICIPATE IN THE SELECTION PROCESS AND TO DESIGNATE COUNCIL MEMBER YOUNG TO CHAIR THE MEETING. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-335: Archstone Mission Gorge, Project No. 142570. Affordable/In-Fill Housing Expedite Program project for the discontinuance and demolition of an existing 119 unit mobile home park and construction of a 444 unit residential rental condominium complex on a 10.2-acre site located at 6850 Mission Gorge Road in the Navajo Community Planning area. (Navajo Community Plan Area. District 7.)

Matter of approving, conditionally approving, modifying or denying a General Plan and Land Use Plan Amendment (Navajo Community Plan) and Rezone to remove the site from the Mobile Home Park Overlay Zone; a Site Development Permit for deviations from the applicable development regulations, for development on a premise containing environmentally sensitive lands (ESL), and for discontinuance of the mobile home park within the Mobile Home Park Overlay Zone; a Vesting Tentative Map for condominium development; and an Easement Abandonment to vacate the existing easements to demolish an existing 119 unit mobile home park and construct a 444 unit residential condominium (for rent) complex on a 10.22-acre site.

As a component of the application, the proposed project will conform to the Inclusionary Affordable Housing Requirements and Council Policy 600-27(A) criteria for the Affordable/In-Fill Housing Expedite Program by setting aside at least 10 percent of the units on-site for households with an income at or below 65 percent Area Median Income (AMI) for rental units. However, the applicant is proposing an additional 10 percent of the total rental condominium units on-site for moderate income households for a total of 20 percent on-site affordable rental condominium units. The project site is located at 6850 Mission Gorge Road in the RM-3-7 Zone within the Navajo Community Planning Area, Community Plan Implementation Overlay Zone (CPIOZ) Area B, Mobile Home Park Overlay Zone (MHPOZ), Federal Aviation Administration (FAA) Part 77 Noticing Area for Montgomery Field, and Council District 7.

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

(See Report to the Planning Commission No. PC-08-084/Environmental Impact Report No. 142570/SCH No. 2008021145/MMRP/Amendments to the General Plan and Land Use Plan (Navajo Community Plan) No. 498721/Site Development

Permit No. 498703/Vesting Tentative Map No. 498719/Easement Abandonment
No. 589137/Rezone No. 586364.)

STAFF'S RECOMMENDATION:

Adopt the resolutions on subitems A, B, C and D, and introduce the ordinance on
subitem E:

Subitem-A: (R-2009-525 Corr. Copy) ADOPTED AS RESOLUTION R-304442

Adoption of a Resolution certifying that the information contained in
Environmental Impact Report No. 142570/SCH No. 2008021145, in connection
with the Community Plan Amendment, Rezone, Easement Abandonment, Vesting
Tentative Map, and Site Development Permit/Project No. 142570 has been
completed in compliance with the California Environmental Quality Act of 1970
(California Public Resources Code Section 21000 et seq.), as amended, and the
State guidelines thereto (California Administrative Code Section 15000 et seq.),
that the report reflects the independent judgment of the City of San Diego as Lead
Agency and that the information contained in said Report, together with any
comments received during the public review process, has been reviewed and
considered by the City Council;

That pursuant to California Public Resources Code Section 21081 and
Administrative Code Section 15091, the City Council hereby adopts the Findings
make with respect to the project, a copy of which is attached hereto and
incorporated herein by reference;

That pursuant to California Administrative Code Section 15093, the City Council
hereby adopts the Statement of Overriding Consideration, a copy of which is
attached hereto and incorporated herein by reference, with respect to the project;

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

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

Subitem-B: (R-2009-526) ADOPTED WITH DIRECTION AS
RESOLUTION R-304443

Adoption of a Resolution adopting the amendments to the Land Use Plan (Navajo Community Plan), a copy of which is on file in the Office of the City Clerk;

That the Council adopts the amendment to the General Plan for the City of San Diego to incorporate the above amended plan.

Subitem-C: (R-2009-528 Rev. Copy) GRANTED PERMIT AS AMENDED/
ADOPTED AS RESOLUTION R-304444

Adoption of a Resolution certifying findings and supported by the minutes, maps and exhibit, all of which are herein incorporated by reference with respect to Site Development Permit No. 498703;

That the recommendation of the Planning Commission is sustained, and Site Development Permit No. 498703 is granted to ASN MISSION GORGE, LLC, A Delaware Limited Liability Company, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-D: (R-2009-527 Rev. Copy) GRANTED MAP/ADOPTED AS
RESOLUTION R-304445

Adoption of a Resolution approving Vesting Tentative Map No. 498719 and Easement Abandonment No. 589137 for Archstone Mission Gorge-Project No. 142570;

Certifying findings supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference, with respect to Vesting Tentative Map No. 498719 and Easement Abandonment No. 589137;

That pursuant to California Government Code section 66434(g), the public service easements, located within the project boundaries as shown in Vesting Tentative Map No. 498719, shall be vacated, contingent upon the recordation of the approved final map for the project;

That Vesting Tentative Map No. 498719 and Easement Abandonment No. 589137, is granted to ASN Mission Gorge LLC, a Delaware Limited Liability Company, Applicant/Subdivider and Rick Engineering Company, Engineer,

subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-E: (O-2009-64) INTRODUCED, TO BE ADOPTED TUESDAY,
DECEMBER 2, 2008

Introduction of an Ordinance of the Council of the City of San Diego changing 11.34 acres located at 6850 Mission Gorge Road, within the Navajo Community Plan Area, in the City of San Diego, California, from the RM-3-7 (Mobile Home Park Overlay Zone) into the RM-3-7, as defined by San Diego Municipal Code Section 131.0406; and repealing Ordinance No. O-15774 (New Series), adopted July 12, 1982, of the Ordinances of the City of San Diego insofar as the same conflict herewith.

OTHER RECOMMENDATIONS:

Planning Commission on October 16, 2008, voted 4-1-2 to approve.

Ayes: Griswold, Ontai, Otsuji, Golba

Nays: Naslund

Not present: Schultz, Smiley

Navajo Community Planning Inc. has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of the Archstone Mission Gorge project, a request for the discontinuance and demolition of an existing 119 unit mobile home park and the construction of a 444 unit residential rental condominium complex on a 10.2-acre site located at 6850 Mission Gorge Road in the Navajo Community Planning area.

STAFF RECOMMENDATIONS:

1. CERTIFY Environmental Impact Report No. 142570, ADOPT the Mitigation Monitoring and Reporting Program, and ADOPT the Findings and Statement of Overriding Consideration;
2. ADOPT Amendments to the General Plan, and the Land Use Plan (Navajo Community Plan) No. 498721;
3. APPROVE Site Development Permit No. 498703;

4. APPROVE Vesting Tentative Map No. 498719 and Easement Abandonment No. 589137; and
5. APPROVE Rezone No. 586364.

EXECUTIVE SUMMARY:

The proposed project site is located at 6850 Mission Gorge Road in the RM-3-7 Zone and is overlain by the Mobile Home Park Overlay Zone. The proposed project site, occupying 10.2-acres, could accommodate 445 dwelling units based on the underlying zone and 307 to 444 dwelling units based on the community plan.

The project proposes the discontinuance and demolition of an existing 119-space mobile home park, and the construction of a 444-unit rental condominium complex of two-, three-, and four-story buildings, leasing facility, fitness facility, and club room that would wrap around a 5.5-level parking structure. The project would conform to the Inclusionary Housing Ordinance by setting aside at least 10 percent of the total rental condominium units on-site for households with an income at or below 65 percent area median income (AMI). However, the applicant is proposing an additional 10 percent of the total rental condominium units on-site for moderate income households (110 percent up to 140 percent AMI) for a total of 20 percent on-site affordable rental condominium units affordable for 55 years.

The California Government Code (Section 65863.7) and the California Mobile Home Residency Law within Civil Code Section 798.55 together establish a comprehensive plan regulating the procedures, notice provision and mitigation measures required to close a mobile home park in California. The City's Mobile Home Park Discontinuance and Tenant Relocation Regulations of the Municipal Code (Section 143.0610) set forth procedures for the conversion of an existing mobile home park or spaces to another use.

In accordance with the regulations and the City's Housing Commission Relocation Standards and Procedures, the project applicant is following the established process for the discontinuance of the existing mobile home park. A Mobile Home Park Relocation Impact Report was prepared, and approved by the City's Housing Commission for conformance with the regulations. The project complies with the applicable sections of the Municipal Code and adopted City Council policies. City staff has prepared resolutions, an ordinance, and the permit for the project and recommends approval.

FISCAL CONSIDERATION:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 16, 2008, the Planning Commission recommended the City Council approve Staff's Recommendation, as listed above, with the following two recommendations: 1) That the project shall maintain the proposed 10 percent of the total rental condominium units on-site for households with an income at or below 65 percent AMI, and the proposed 10 percent of the total rental condominium units on-site for moderate income households shall be increased to 15 percent for a total of 25 percent on-site affordable rental condominium units. 2) That the project shall include a photovoltaic system (i.e. solar panels) sufficient to generate the proposed common use area's projected energy consumption. [The Motion made by Commissioner Griswold, second by Commissioner Golba. Passed by a 4-1-2 vote with Commissioner Naslund voting NAY, and Commissioner Schultz and Smiley not present.] The applicant has agreed to the recommendation for the photovoltaic system; however, they have not agreed to the recommendation to increase the number of moderate income households units to 15 percent.

A separate Advisory Motion was made by the Planning Commission for the City Council to look into a Policy that would preserve Affordable Housing and Senior Citizen Housing as a priority objective for the Community Plan updates. [Motion made by Commissioner Ontai, second by Commissioner Otsuji. Passed by a 5-0-2 vote, and Commissioner Schultz and Smiley not present.]

On September 15, 2008, the Navajo Community Planners Inc. voted 9-3-0 to recommend denial of the project as presented.

KEY STAKEHOLDERS:

ASN Mission Gorge LLC, A Delaware Limited Liability Company, Owner/Applicant

Broughton/Anderson/JP

LEGAL DESCRIPTION:

The project site is located in the RM-3-7 (multi-family residential) zone and is designated for multi-family residential development at 30-43 dwelling units/acre (du/ac) as identified in the Navajo Community Plan (NCP).

NOTE: The City of San Diego as Lead Agency under CEQA has prepared and completed Environmental Impact Report No. 142570, dated September 24, 2008, and Mitigation, Monitoring and Reporting Program (MMRP) covering this activity.

Staff: Jeffrey A. Peterson – (619) 446-5237
Marianne Greene – Deputy City Attorney

000173

**Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, November 18, 2008**

Page 149

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

FILE LOCATION: SUBITEMS A, B, C, & D: MEET
SUBITEM E: NONE

COUNCIL ACTION: (Time duration: 5:14 p.m. – 8:48 p.m.)

Testimony in opposition by Homer Barrs, Arlene Wise, Jarvis Ross, Dan Soderberg, Dennis Holland, Len Berman, Ron Dunbar, William Cox, David Quinn, Tim Sheahan, Rick Fahmie, Katheryn Rhodes, Bill Hardesty and Debbie Gosch.

Testimony in favor by Lovelyn Layug, Paul Robinson, Michael Sweeny, Mark Rawlins, Jason King, Randy Moss, Bodean Matheson, Ian Monteyro, Al Udwin, Gary London, Alan Pentico and Michael Walseth.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, C, AND D, AND TO INTRODUCE THE ORDINANCE IN SUBITEM E AS FOLLOWS: 1) CERTIFY THE ENVIRONMENTAL IMPACT REPORT; ADOPT THE MITIGATION MONITORING REPORT PROGRAM AND ADOPT THE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS; 2) ADOPT THE AMENDMENTS TO THE GENERAL PLAN AND THE LAND USE PLAN; 3) ADOPT THE REZONE ORDINANCE AND REMOVE THE OVERLAY ZONE; 4) GRANT VESTING TENTATIVE MAP; 5) GRANT SITE DEVELOPMENT PERMIT AS AMENDED WITH THE LANGUAGE CHANGE REGARDING INDEMNIFICATION CONDITIONS WITHIN THE TWO PERMITS; 6) APPROVE EASEMENT ABANDONMENT; 7) ALLOW TENANTS TO CHOOSE RELOCATION OR BUY-OUT OPTION BASED ON THE UPDATED, HOUSING COMMISSION AND HOUSING AND URBAN DEVELOPMENT 2009 FIGURES AND PROVIDE SEVEN-YEAR RENTAL ASSISTANCE SUBSIDY; 8) ARCHSTONE SHALL CONTRIBUTE \$581,351 TOWARD THE COST OF THE ALVARADO CANYON ROAD REALIGNMENT PROJECT (T_12 OF THE CURRENT NAVAJO COMMUNITY PUBLIC FACILITIES FINANCING PLAN). IN THE SECOND PHASE OF THE PROJECT, APPLICANT AGREES TO PROVIDE ACCESS TO THE NEXT-DOOR PROPERTY TO MAINTAIN AN INTERNAL ELEMENT TO KEEP TRAFFIC OFF MISSION GORGE ROAD; 9) DESIGN TRAFFIC FLOW SO THAT THERE IS NO NEW TRAFFIC GOING INTO ALLIED GARDENS VIA GREENBRIER; 10) APPLICANT AGREES TO VOTE IN THE AFFIRMATIVE FOR A LANDSCAPING MAINTENANCE ASSESSMENT DISTRICT AND FOR A COMMUNITY FUNDING DISTRICT TO FUND THE FREE GRANTVILLE SHUTTLE SERVICE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-not present, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-336: 860 Agate Map Waiver, Project No. 161894. CEQA determination Appeal for Condominium Conversion, a Map Waiver to waive the requirement for a Tentative map to convert two existing residential units to condominium and a Waiver from the requirement to underground the existing overhead utilities. (Pacific Beach Community Plan Area. District 2.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, on behalf of Citizens for Responsible Equitable Environmental Development from the decision of the City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) which has determined that the subject project is exempt pursuant to State CEQA Guidelines Section 15301 (k).

(Tentative Map No. 161894.)

STAFF'S RECOMMENDATION:

Take the following action:

(R-2009-) DENIED APPEAL/GRANTED MAP/ADOPTED AS
RESOLUTION R-304446

Adoption of a Resolution granting or denying the appeal and granting or denying the Tentative Map No. 161894, including the request to waive the requirement to underground the 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.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the environmental determination of exemption prepared for a condominium conversion within the Pacific Beach Community Plan area. The project is known as 860 Agate Map Waiver - Project No. 161894.

STAFF RECOMMENDATIONS:

1. **Deny** the appeal and uphold the Environmental Determination.
2. Make an express finding that the information provided by the appellant and his experts should be excluded from the record because it is argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

EXECUTIVE SUMMARY:

This is a California Environmental Quality Act (CEQA) appeal similar to other condominium conversion project appeals previously brought before the City Council and denied.

The denial of this appeal would allow the applicant to continue processing their Map Waiver request through the discretionary hearing process.

Basis for Appeal: The appellant's appeal states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial review of the proposed Map Waiver in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the project is exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that this particular condominium conversion could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the project would not result in a direct, or reasonably foreseeable indirect physical change in the environment. City staff have determined that the project is exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k). Appeals brought by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation have been heard before this City Council. This project was determined to be categorically exempt from the California Environmental Quality Act on August 12, 2008 (Attachment 1) and the appellant appealed that determination on August 19, 2008 (Attachment 2).

Staff agrees that the limited availability of affordable housing in the City of San Diego is an issue of concern. However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006, and June 13, 2006.

While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The

subject project does not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

The processing of this project to a decision will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant costs could be incurred by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This same type of appeal has been scheduled before the City Council in the recent past. The City Council concurred with staff and denied all of the appellant's appeals.

Planning Commission Decision: The Planning Commission has not acted (and is not required to act) on this issue of the appeal of the environmental determination of exemption.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

860 Agate, LLC, Owner (Attachment 3) and Robert Bateman, San Diego Land Surveying and Engineering, Inc., Applicant.

Broughton/Anderson/LF

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

Staff: Linda D. French – (619) 446-5235

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

FILE LOCATION: MEET

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

Testimony in favor by Mekaela Gladden.

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATION TO DENY APPELLANT'S APPEAL; UPHOLD THE ENVIRONMENTAL DETERMINATION; AND GRANT THE TENTATIVE MAP INCLUDING THE REQUEST TO WAIVE THE REQUIREMENT TO UNDERGROUND THE EXISTING OVERHEAD UTILITIES, WITH APPROPRIATE FINDINGS TO SUPPORT COUNCIL ACTION; AND TO MAKE AN EXPRESS FINDING THAT THE INFORMATION PROVIDED BY THE APPELLANT AND HIS EXPERTS SHOULD BE EXCLUDED FROM THE RECORD. 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-337: Golden Triangle Business Center, Project No. 155174. Site Development Permit, Tentative Map, and Planned Development Permit for the construction of a 100,000 square-foot, four-story office building, over a two-level parking structure. (University Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying a Site Development Permit, Tentative Map, and Planned Development Permit for the construction of a 100,000 square-foot, four-story office building, over a two-level parking structure. In addition, the applicants are proposing utilization of City fee-owned Open Space parkland to provide access to the proposed project site. The project site is located west of Interstate 805, east of Genesee Avenue, south of Nobel Drive and north of the railroad easement located in Rose Canyon Open Space Park, within the University Community Plan.

STAFF'S RECOMMENDATION:

Adopt the following resolutions in subitems A and B:

Subitem-A: (R-2009-567) RETURNED TO THE MAYOR'S OFFICE
WITH DIRECTION

Adoption of a Resolution certifying findings with respect to Site Development Permit (SDP) No. 603150 and Planned Development Permit No. (PDP) No. 555118;

Declaring the findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Denying SDP No. 603150 and PDP No. 55118 to Golden Triangle Partners.

Subitem-B: (R-2009-568) RETURNED TO THE MAYOR'S OFFICE
WITH DIRECTION

Adoption of a Resolution certifying findings with respect to Tentative Map (TM) No. 555119;

Declaring the findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Declaring that, based on findings hereinbefore adopted by the Council of the City of San Diego, TM No. 555119 is denied to Golden Triangle Partners, Applicant, and Leppert Engineering Corporation, Engineer.

OTHER RECOMMENDATIONS:

The project was not presented to the Planning Commission. A Planning Commission recommendation is not required for the Sale of Public Land pursuant to Section Council Policy 700-06, Encroachments on City Property.

Staff's recommendation is to deny Site Development Permit No. 603150, Planned Development Permit No. 555118, and Tentative Map No. 555119.

The University Community Planning Group has been notified of this project and has not submitted a recommendation.

The project was informally presented to the Friends of Rose Canyon on October 27, 2008, and the group will be submitting a letter at the hearing. The project will also be informally being presented to members of the University Community Planning Group prior to the City Council hearing. The University Community Planning Group will not hold a November meeting and will also be submitting a letter with their recommendation at the City Council hearing.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

A Site Development Permit, Tentative Map, and Planned Development Permit for the construction of a 100,000 square-foot, four-story office building over a two-level parking structure. The project site is located west of Interstate 805, east of Genesee Avenue, south of Nobel Drive and north of the railroad easement located in Rose Canyon Open Space Park, within the University Community Plan (Attachment 1).

STAFF RECOMMENDATION:

Deny Site Development Permit No. 603150, Planned Development Permit No. 555118, and Tentative Map No. 555119.

EXECUTIVE SUMMARY:

The project requires approval of a Site Development Permit, Tentative Map, and Planned Development Permit for the construction of a 100,000 square-foot, four-story office building, over a two-level parking structure. In addition, the applicants are proposing utilization of City fee-owned Open Space parkland to provide access to the proposed project site. Staff cannot support the use of Open Space parkland for this private project. The applicants have asked staff to move the project to the City Council for a decision on the proposed project (Attachment 2). Staff is recommending that the City Council deny the proposed project.

The project is currently proposing to gain access to the project through parcels located within the Multi-Habitat Planning Area (MHPA) of the Multiple Species Conservation Program (MSCP). Biological resources within the proposed access roadway include southern sycamore riparian woodland, southern willow scrub, riparian scrub, coast live oak woodland, Diegan coastal sage scrub, chaparral, and non-native grassland. The proposed access road has the potential to cross riparian habitat in two locations. Additionally, depending on the location of the road, a MHPA boundary line adjustment may be required. The proposed access is not the most environmentally sensitive alternative, and staff has recommended that the applicants use their existing legal

access to the property. Based on staff's analysis of the proposed project, the owners would need to purchase two parcels of land to utilize their proposed access road; Assessor Parcels Nos. 345-221-01 and 348-840-07.

The City's Real Estate Assets Department Land Acquisition Records indicate that Parcel 345-221-01 is a 2.25 acre parcel acquired on December 29, 1988, as Open Space per the approval of Subdivision Map 12234. Parcel 348-840-07 is 5.43 acres and was acquired as Open Space per the approval of Subdivision Map 11505. Both parcels would be needed to gain access to the site, and both parcels are designated parkland. The applicants are requesting access that would impact approximately 1.50 acres of the 2.25 acre parcel, and 2.20 acres of the 5.43 acre parcel (Attachment 3).

City Charter Article 5, Section 55, Park and Recreation states: "real property which has been heretofore or which may hereafter be set aside without the formality of an ordinance or statute dedicating such lands for park, recreation or cemetery purposes may be used for any public purpose deemed necessary by the Council" (Attachment 4).

In addition, Council Policy 700-06, Encroachments on City Property, Section I, B. 2, Dedicated or Designated Parkland and Open Space states: "Permission for encroachment on dedicated or designated parkland and open space that would benefit only a private party shall not be granted" (Attachment 5). Staff has determined that both the use and/or the sale of City fee-owned Open Space parkland for use as a private road providing no public benefit to the City is not warranted and should not be granted.

Pursuant to previously approved Subdivision Map No. 11505, the proposed project site has access via an existing private driveway from Shoreline Drive off Nobel Drive. This existing and improved 26-foot private driveway is the legal access for the proposed parcel. Since 1994, staff has consistently advised the applicant to remove the proposed access road from all City fee-owned Open Space parkland and utilize the existing legal access to the site (Attachment 6).

Because staff and the applicant have reached an impasse on this issue, the applicant has requested that staff move the project forward to the City Council with a recommendation for denial. The California Environmental Quality Act includes a provision that allows exemptions for projects where staff is recommending denial, and prior to the completion of an adequate final environmental document. Therefore, the City Council's only options include 1) Denial of the project; or 2) Return the project to staff with direction to work with the applicant to allow the project access through publicly owned open space parkland and/or the sale of the affected open space parcels.

FISCAL CONSIDERATIONS:

All costs associated with processing this project are recovered from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The project was informally presented to the University Community Planning Group on October 23, 2008. The group will not hold a November meeting and will be submitting a letter with their recommendation at the City Council hearing. The project was not presented to the Planning Commission. A Planning Commission recommendation is not required for the Sale of Public Land pursuant to section Council Policy 700-06, Encroachments on City Property.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

ISD Properties, LLC. Applicant.

Broughton/Anderson/DJ

Staff: Derrick Johnson – (619) 446-5238
Nina M. Fain– Deputy City Attorney

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15270(a) of the State CEQA Guidelines (Project Denial).

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:48 p.m. – 3:49 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR WITH DIRECTION TO HAVE THE ITEM RETURN TO COUNCIL IN 90 DAYS. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 8:36 p.m. – 8:36 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 8:48 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 8:48 p.m. – 8:48 p.m.)