

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 TUESDAY, AUGUST 8, 2006
 AT 9:00 A.M.
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 12:01 p.m. The meeting was recessed by Council President Peters at 12:48 p.m. to convene the Housing Authority and thereafter the Redevelopment Agency. Council President Peters reconvened the meeting at 1:01 p.m. with all Council Members present. Council President Peters adjourned the meeting at 1:15 p.m.

ATTENDANCE DURING THE MEETING:

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

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 bus transportation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:07 p.m. – 12:10 p.m.)

PUBLIC COMMENT-2:

Hud Collins commented on pension and financial matters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:10 p.m. – 12:14 p.m.)

PUBLIC COMMENT-3:

David Ray Brown commented on police brutality.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:14 p.m. – 12:16 p.m.)

PUBLIC COMMENT-4:

Frank Eaves commented on the persecution of Fauln Gong practitioners.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:16 p.m. – 12:19 a.m.)

PUBLIC COMMENT-5:

Jinna Albright commented on the police officers' salaries, benefits, and long hours.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:19 p.m. – 12:22 p.m.)

PUBLIC COMMENT-6:

Clive Richards commented on the police officers' salaries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:22 p.m. – 12:25 p.m.)

PUBLIC COMMENT-7:

Mignon Scherer commented on population growth.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:25 p.m. – 12:28 p.m.)

PUBLIC COMMENT-8:

April Boeling commented on the interaction between the pension plan and water and wastewater charges.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:28 p.m. – 12:32 p.m.)

PUBLIC COMMENT-9:

Robert Rivas and Rudy Reyes commented on medical marijuana.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:32 p.m. – 12:35 p.m.)

PUBLIC COMMENT-10:

John Redman commented on marijuana dispensaries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:35 p.m. – 12:37 p.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council President Pro Tem Young reminded Council that today is the second anniversary of Council Member Lewis' passing.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 1:14 p.m. – 1:15 p.m.)

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:

6/05/2006 - Adjourned
6/06/2006 - Adjourned
6/12/2006
6/13/2006

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 12:02 p.m. – 12:02 p.m.)

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

ITEM-31: North Park Lions Club Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-39) CONTINUED TO TUESDAY, SEPTEMBER 12, 2006

Commending the staff, board members, volunteers, sponsors, and participants of North Park Lions Club for their outstanding service, leadership, commitment, and generosity to those in need;

Proclaiming August 8, 2006, to be "North Park Lions Club Day" in the City of San Diego.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 12:02 p.m. – 12:02 p.m.)

MOTION BY ATKINS TO CONTINUE TO TUESDAY, SEPTEMBER 12, 2006 AT THE REQUEST OF COUNCIL MEMBER ATKINS. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-50: Amendment to Affordable Housing Inclusionary Regulations.

(See San Diego Housing Commission Report CCR06-001 and Independent Budget Analyst Report 06-7.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/25/2006, Item 330, Subitem A. (Council voted 8-0):

(O-2007-11) ADOPTED AS ORDINANCE O-19530 (New Series)

Amending Chapter 14, Article 2, Division 13 of the San Diego Municipal Code by amending Sections 142.1304, 142.1305, and 142.1310, all relating to Inclusionary Housing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-51: Ocean Beach Branch Library First Amendment and Restated Consultant Agreement.

(Ocean Beach Community Area. District 2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/25/2006, Item 52. (Council voted 8-0):

(O-2006-154) CONTINUED TO TUESDAY, SEPTEMBER 12, 2006

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, the Amended and Restated Agreement with Hanna Gabriel Wells Architects for professional services required for the construction of the Ocean Beach Branch Library, in an amount not to exceed \$378,200, under the terms and conditions set forth in the Amended and Restated Agreement;

Authorizing the expenditure of an amount not to exceed \$303,200 from CIP-35-100.0, Ocean Beach Branch Library, Fund No. 18523, Dept. No. 18523, to provide funding for the Amended and Restated Agreement for Ocean Beach Branch Library;

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

Declaring this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2), because this activity will not result in direct or reasonably foreseeable indirect physical change in the environment.

NOTE: 6 votes required pursuant to Charter Section 99.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:03 p.m.)

MOTION BY FAULCONER TO CONTINUE TO TUESDAY, SEPTEMBER 12, 2006, DUE TO NOTICING ISSUES. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-52: Glass Bottle Ordinance for the Qualcomm Stadium Parking Lot.

(See Report to the City Council No. 06-106. District 6.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-159) INTRODUCED, TO BE ADOPTED ON TUESDAY,
SEPTEMBER 12, 2006

Introduction of an Ordinance amending Chapter V, Article 9, Division 1, of the San Diego Municipal Code by amending Section 59.0502 to prohibit glass beverage containers in Qualcomm Stadium Parking Facility.

Staff: Erik Stover - (619) 641-3102
Jacqueline Lindsay - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-53: No Smoking Policy for Qualcomm Stadium.

(See Report to the City Council No. 06-107. District 6.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2007-22) INTRODUCED, TO BE ADOPTED ON TUESDAY,
SEPTEMBER 12, 2006

Introduction of an Ordinance amending Chapter V, Article 9, Division 2, of the San Diego Municipal Code by amending Section 59.0202, relating to the smoking and disposal of tobacco products at Qualcomm Stadium.

Staff: Erik Stover - (619) 641-3102
Jacqueline Lindsay - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-54: Five actions related to Multiple School Joint Use Agreement Renewals (Batch #4).

(Report to the City Council No. 06-110. Encanto Neighborhoods (Southeastern), Clairemont Mesa, Serra Mesa, Tierrasanta, Southeastern San Diego (Southeastern) Community Areas. Districts 4, 6, and 7.)

STAFF'S RECOMMENDATION:

Introduce the following ordinances:

Subitem-A: (O-2006-151 Cor. Copy) INTRODUCED, TO BE ADOPTED
ON TUESDAY, SEPTEMBER 12,
2006

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City of San Diego, an agreement with the San Diego Unified School District for the construction, operation, maintenance, and lease of joint use facilities at Alcott Elementary School, under the terms and conditions set forth in the agreement.

NOTE: 6 votes required.

Subitem-B: (O-2006-155 Cor. Copy) INTRODUCED, TO BE ADOPTED
ON TUESDAY, SEPTEMBER 12,
2006

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City of San Diego, an agreement with the San Diego Unified School District for the construction, operation, maintenance, and lease of joint use facilities at Cadman Elementary School, under the terms and conditions set forth in the agreement.

NOTE: 6 votes required.

Subitem-C: (O-2006-156 Cor. Copy) INTRODUCED, TO BE ADOPTED ON
TUESDAY, SEPTEMBER 12, 2006

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City of San Diego, an agreement with the San Diego Unified School District for the construction, operation, maintenance, and lease of joint use facilities at Juarez Elementary School, under the terms and conditions set forth in the agreement.

NOTE: 6 votes required.

Subitem-D: (O-2006-157 Cor. Copy) INTRODUCED, TO BE ADOPTED ON
TUESDAY, SEPTEMBER 12, 2006

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City of San Diego, an agreement with the San Diego Unified School District for the construction, operation, maintenance, and lease of joint use facilities at Serra High School, under the terms and conditions set forth in the agreement.

NOTE: 6 votes required.

Subitem-E: (O-2006-158 Cor. Copy) INTRODUCED, TO BE ADOPTED ON
TUESDAY, SEPTEMBER 12, 2006

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City of San Diego, an agreement with the San Diego Unified School District for the construction, operation, maintenance, and lease of joint use facilities at Valencia Park Elementary School, under the terms and conditions set forth in the agreement.

NOTE: 6 votes required.

STAFF SUPPORTING INFORMATION:

The City's Progress Guide and General Plan recommends 10 usable acres of neighborhood park for every 3,500 to 5,000 residents. In areas of the city where parkland is deficient per the City's General Plan standards, joint use facilities have provided a venue for City recreation programs typically provided at neighborhood parks. A joint use facility is defined as land or facilities that are owned by the City or another agency and shared between agencies to meet the recreational and physical education needs of both agencies.

The City and the District have been cooperating in the use of numerous recreational facilities in accordance with the City-District Recreation Agreement of September 1948, and the Memorandum of Understanding between the City and District for the Development and Maintenance of Joint Use Facilities adopted by the San Diego City Council on October 7, 2002 (Resolution No. R-297149), and by the District's Board of Education on October 8, 2002. Currently, the City has approximately 100 joint use agreements with various school Districts citywide.

The agreements for Alcott Elementary School, Cadman Elementary School and Cadman Community Park, Juarez Elementary School, Serra High School and Valencia Park Elementary School have expired and are temporarily extended on a month to month basis.

FISCAL CONSIDERATIONS:

See Report to City Council No. 06-110.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

NA

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Park Planning and Development Division staff solicited public input from the appropriate Recreation Councils for each site and received a recommendation for approval to renew the joint use agreements, as follows:

- Alcott Elementary School - (North Clairemont Recreation Council, October 19, 2005)
- Cadman Elementary School and Cadman Community Park - (North Clairemont Recreation Council, October 19, 2005)
- Juarez Elementary School - (Serra Mesa Recreation Council, July 13, 2005)
- Serra High School - (Tierrasanta Recreation Council, January 12, 2006)

Valencia Park Elementary School - The Martin Luther King Recreation Council voted to recommend denial of the joint use agreement renewal for Valencia Park Elementary School on July 21, 2005. They cited lack of programmed use of the fields by the community, concern that increased maintenance of the site caused by damage to irrigation and turf from vehicular activity would take staff time away from M.L. King, Jr. Community Park, and dissatisfaction with the safety of the children using the fields when children are dropped off or picked up from school. Although the Recreation Council has recommended against renewal of the joint use agreement for this site, Park and Recreation Department staff feel that the community's concerns can be resolved to everyone's satisfaction. If the joint use agreement is terminated at this site, the City is obligated, pursuant to the previous agreement, to remove the joint use facilities and return the area to its original condition.

The Park Planning and Development Division has identified funding to implement the recommended safety and vehicular control improvements, and will create a Capital Improvement Program (CIP) project to be added to the Fiscal Year 2007 CIP Budget. Funding for the turf and irrigation repair work will be added to this CIP project as soon as a source is identified. Additionally, the Southeastern San Diego Community is deficient in population-based park land by approximately 160 usable acres, for which this joint use facility helps to alleviate. Therefore, staff recommends renewal of this joint use agreement.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

See above.

Penera/Martinez

Staff: Deborah Sharpe - (619) 525-8261
Alex W. Sachs - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-55: Joint Use Agreement with the San Diego Unified School District for Florence Griffith Joyner Elementary School.

(Mid City (City Heights) Community Area. District 3.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2007-21) INTRODUCED, TO BE ADOPTED ON TUESDAY,
SEPTEMBER 12, 2006

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City of San Diego, an agreement with San Diego Unified School District for the construction, operation, maintenance, and a twenty-five (25) year no fee lease of turfed fields and a paved parking area at Florence Griffith Joyner Elementary School, under the terms and conditions set forth in the Agreement.

NOTE: 6 votes required.

STAFF SUPPORTING INFORMATION:

Florence Griffith Joyner Elementary School is located at 4271 Myrtle Street in the Mid-City (City Heights) Community. The proposed joint use agreement with the San Diego Unified School District (SDUSD) would provide for 1.70 acres of turfed fields and 0.40 acres of parking. The City Heights Community Planning Area is park deficient; therefore, this project will help to satisfy the community's and SDUSD's recreational and athletic programmatic needs.

The City's Progress Guide and General Plan recommends 10 usable acres of neighborhood park for every 3,500 to 5,000 residents. In areas of the city where parkland is deficient per the City's General Plan standards, joint use facilities have provided a venue for City recreation programs typically provided at neighborhood parks. A joint use facility is defined as land or facilities that are owned by the City or another agency and shared between agencies to meet the recreational and physical education needs of both agencies.

The City and the District have been cooperating in the use of numerous recreational facilities in accordance with the City-District Recreation Agreement of September 1948, and the Memorandum of Understanding between the City and District for the Development and Maintenance of Joint Use Facilities adopted by the San Diego City Council on October 7, 2002 (Resolution No. R-297149), and by the District's Board of Education on October 8, 2002. Currently, the City has approximately 100 joint use agreements with various school Districts citywide.

The proposed turf fields at Florence Griffith Joyner Elementary School will be developed and maintained through this twenty-five (25) year no fee lease and joint use agreement with the San Diego Unified School District (SDUSD). The terms of the agreement allow for the development, operation, and maintenance of irrigated and turfed multi-use playing fields and parking. Funding for design and construction of the turf fields will be provided by the SDUSD as a part of the Proposition MM measure. Since the SDUSD is providing the land and development of the joint use fields, the City will be responsible for the operation and maintenance until parity is reached, as outlined in this joint use agreement.

FISCAL CONSIDERATIONS:

The joint use fields will cost approximately \$15,300 in annual operating costs. The fields will open to the public in FY '08, therefore this funding will be requested during the FY '08 budget process.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The San Diego Unified School District conducted numerous public workshops in the City Heights community to gather input on the design of this new Proposition MM school.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include the community members in City Heights.

Penera/Martinez

Staff: April Penera - (619) 525-8223

Jacqueline Lindsay - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-56: Amendments to Ethics Ordinance.

(See memorandum from Stacy Fulhorst dated 5/16/2006 and Revised Proposed amendments to the Post Employment Lobbying Provisions of the Ethics Ordinance dated 5/31/2006.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2007-3) INTRODUCED, TO BE ADOPTED ON TUESDAY,
SEPTEMBER 12, 2006

Introduction of an Ordinance amending Chapter 2, Article 7, Division 35 of the San Diego Municipal Code by amending Sections 27.3503 and 27.3550, all relating to the City of San Diego Ethics Ordinance.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 5/31/2006, Rules voted 5-0 to eliminate the collective bargaining exception from post-employment lobbying laws, while adding a grandfather clause applicable to City officials who leave City service before the effective date of the amendment.

To comply with the provisions of California Government Code Section 87406.3 (Senate Bill 8, effective July 1, 2006) by amending the Ethics Ordinance to delete exemptions related to post-employment for elected officials and city managers. (Council President Peters, Council President Pro-Tem Young, Councilmembers Maienschein, Frye, and Madaffer voted yea.)

SUPPORTING INFORMATION:

The City's Ethics Ordinance contains post-employment provisions that generally prohibit former City Officials from lobbying the City for a one-year period following their separation from the City. There are several exceptions to these provisions, including one for communications related to collective bargaining agreements and memorandums of understanding between the City and its employee organizations, as well as an exception for communications pertaining to management decisions in the context of the working conditions of represented employees. Councilmember Donna Frye raised questions regarding the appropriateness of these exemptions, and the matter was subsequently considered by the Ethics Commission.

The Ethics Commission considered the foregoing issue and unanimously decided to recommend to the Rules Committee that the post-employment provisions in the Ethics Ordinance be amended to delete the exemptions for communications relating to collective bargaining agreements and working condition decisions. The Rules Committee concurred with these recommendations, which are now contained in the attached ordinance. Note that the proposed change includes a "grandfather" clause applicable to City Officials who leave City service before the effective date of the amendment.

The Ordinance will also enable the City to comply with the recent passage of Senate Bill 8, which went into effect as California Government Code Section 87406.3 on July 1, 2006. The new state law, which is part of the Political Reform Act, imposes post-employment restrictions on certain types of local officials, including elected officials and city managers. The majority of the new state law is very similar to the provisions that currently exist in the Ethics Ordinance. Both sets of laws generally prohibit, for a period of one year after leaving office, certain former officials from engaging in paid communications with current officials for the purpose of influencing governmental decisions. The state law, however, does not include several exemptions that currently exist in the Ethics Ordinance. In particular, Section 87406.3 does not include exemptions for: (1) speaking at a public hearing or providing written statements which become part of the public record, (2) attorneys involved in litigation, or (3) statements made as a witness. In other words, under state law, former elected officials and city managers are not permitted to engage in these three types of activities if they receive compensation for doing so from a private entity during the one year post-employment period.

Local jurisdictions may not adopt governmental ethics laws that are less restrictive than those contained in the Political Reform Act. Because the Ethics Ordinance currently includes exemptions available to former elected officials and former City Managers that do not exist in the new state law, local law is less restrictive than state law. As a result, the Ethics Ordinance must be amended to delete these exemptions for elected officials and City Managers. Note that these exemptions do not have to be deleted for other types of former City Officials (e.g., Department Directors, Council Representatives, and Deputy City Attorneys) because Senate Bill 8 does not apply to them. On May 31, 2006, the Rules Committee approved the language in the draft Ordinance. As written, the draft Ordinance will obtain compliance with Senate Bill 8 by subjecting former elected officials and former City Managers to more stringent post-employment lobbying restrictions than those applicable to other types of City Officials.

FISCAL CONSIDERATIONS:

None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Approved by the Rules Committee on May 31, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public discussion at Ethics Commission meeting of May 11, 2006.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City Officials who are subject to the Ethics Ordinance; amendments change the post-employment lobbying provisions to which they are subject following their separation from City employment.

Fulhorst

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-60: Three actions related to Carson Elementary Joint Use Improvements.

(Linda Vista Community Area. District 6.)

STAFF'S RECOMMENDATION:

Introduce the ordinance in Subitem A and adopt the resolutions in Subitems B and C:

Subitem-A: (O-2007-14) INTRODUCED, TO BE ADOPTED ON TUESDAY,
SEPTEMBER 12, 2006

Introduction of an Ordinance authorizing the Mayor, or his representative, to execute, for and on behalf of the City, a twenty-five year lease and joint use agreement with the San Diego Unified School District for construction, operation, and maintenance of turf fields and recreational facilities at Carson Elementary School, under terms and conditions set forth in the Agreement, contingent on the availability of \$634,622 in State grant funding and provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Declaring this activity is categorically exempt from the requirements of the California Environmental Quality Act under CEQA Guidelines Section 15301, maintenance of existing facilities, and Section 15304, minor alterations to land.

NOTE: 6 votes required.

Subitem-B: (R-2007-59) ADOPTED AS RESOLUTION R-301822

Adoption of a Resolution authorizing the Mayor, or his representative, for and on behalf of the City, to apply to the State of California for grant funding under the 2002 Resources Bond for construction of joint use improvements at Carson Elementary School;

Authorizing the Mayor, or his representative, to execute grant documents necessary to secure such grant funding;

Authorizing the City Auditor and Comptroller to accept and appropriate such grant funding, and to establish a separate interest-bearing account for such funding;

Authorizing the City Auditor and Comptroller to accept a donation of \$30,000 from the San Diego Unified School District under its Chargers Champion Football grant funds, to be used towards the joint use improvements at Carson Elementary School, to be deposited in Fund No. 10365;

Authorizing the City Auditor and Comptroller, in accordance with the Annual Appropriation Ordinance, to amend the Fiscal Year 2007 Capital Improvements Program budget to increase CIP-29-514.0, Carson Elementary School-Joint Use Improvements, by the amount of \$714,662, contingent on receipt of \$634,622 in State grant funding;

Authorizing the City Auditor and Comptroller to transfer the amount of \$714,662 to CIP-29-514.0, Carson Elementary School-Joint Use Improvements, from the following: \$50,000 from Development Impact Fees, Fund No. 79503; \$144,583 from the 2002 Resources Bond Per Capita Block Grant Program; \$490,079 from the 2002 Resources Bond Roberti-Z'Berg-Harris Grant Program, contingent on receipt of grant funding; and \$30,000 from the San Diego Unified School District donation, Fund No. 10365;

Authorizing the expenditure of an amount not to exceed \$714,662 from CIP-29-514.0, Carson Elementary School-Joint Use Improvements, solely and exclusively to provide funds for the joint use improvements at Carson Elementary School, contingent on receipt of grant funding from the State of California and donation from the San Diego Unified School District and provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

Subitem-C: (R-2007-61) ADOPTED AS RESOLUTION R-301823

Adoption of a Resolution authorizing the Mayor, or his representative, to execute, for and on behalf of the City, an agreement with Rick Engineering Company, Landscape Architecture Division, for landscape design services in connection with improvements at Carson Elementary School, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$44,738 from Fund No. 79503, CIP-29-514.0, Carson Elementary School-Joint Use Improvements, solely and exclusively, to provide funds for the above Agreement.

STAFF SUPPORTING INFORMATION:

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond "Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (bond)." Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond. On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita/RZH Per Capita funds to each Council District, with a portion of the funding set aside for projects with citywide and regional impact. On February 20, 2004, the City entered into an umbrella contract with the State of California for the 2002 Resources Bond Act Per Capita/RZH Per Capita Grant Program.

The grant funds requested with this action will be appropriated from the Council District 6 portion of the RZH per Capita funds which are distributed by Councilmember Donna Frye. The proposed facilities at Carson Elementary School will be developed and maintained through this twenty-five (25) year no fee lease and joint use agreement with the San Diego Unified School District. The proposal is also compatible with the City of San Diego's land use plans for the surrounding area.

Carson Elementary School is located at 6905 Kramer Street, in the Linda Vista Community area. The terms for the agreement allow for the design, construction, operation and maintenance of an approximately 1.8 acres of irrigated turfed fields, picnic tables, drinking fountain and other amenities.

The City and District have been cooperating in the use of numerous recreational facilities in accordance with the City-District Recreation agreement of September 1948, and the Memorandum of Understanding (MOU) between the City and District for the Development and Maintenance of Joint User Facilities adopted by the San Diego City Council on October 7, 2002 (Resolution No. R-297149) and by the District's Board of Education on October 8, 2002. The terms of proposed agreement are consistent with the 1948 Recreation Agreement and MOU. The District's Board of Education approved this joint use agreement on April 25, 2006. The DISTRICT received a Chargers Champions Grant for the purpose of completing a turf field on Kit Carson Elementary School property to be jointly used by the DISTRICT and the CITY, the DISTRICT shall donate the grant funds in the amount of \$30,000 to the CITY for completion of the Carson Elementary capital improvement project.

The Agreement with the Landscape Division of Rick Engineering, will revise the scope of services to provide professional Services including but not necessarily limited to architectural, electrical, civil, mechanical, structural, landscape, and construction document, on the Carson Elementary School Joint Use Improvement project. The agreement is needed to finish the design document and consulting service required for the completion of the project. The compensation for this agreement shall not exceed \$44,738.

FISCAL CONSIDERATIONS:

The joint use fields will cost approximately \$20,000, from the City's general fund, in annual operating costs. The fields will be open to the public in FY '08; therefore this funding will be requested during the FY '08 budget process.

The original purchase order and consultant agreement for the design of Carson Elementary School Joint Use General Development Plan (GDP), allowed for a total of \$9,000. This First Amendment to the consultant agreement will provide an additional \$44,738 in Consultant Services for a total agreement of \$53,738.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On January 8, 2002, Council authorized the allocation and expenditure of funds for the general development plan, per Resolution Number R-295911.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Linda Vista Community Park Recreation Council, the Coastal Area Committee, the Design Review Committee and the San Diego City Schools Board of Education recommended the approval of the improvement project.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Stakeholders: Rick Engineering, and the School District.

Penera/Martinez

Aud. Cert. 2600929.

Staff: Tina Huang - (619) 533-3745
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE IN SUBITEM A; AND ADOPT THE RESOLUTIONS IN SUBITEMS B AND C. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-100: Inviting Bids for the Construction of General Requirements Contract for Park & Recreation Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-85) ADOPTED AS RESOLUTION R-301824

Approving the Contract Documents and Technical Specifications for the General Requirements Contract for the Park and Recreation Department, to provide as-needed construction of minor improvements at various locations, on Work Order No. 250120;

Authorizing the Mayor, or his designee, after advertising for bids, to award the contract to the lowest responsible and reliable bidder for the General Requirements Contract for the Park and Recreation Department for as-needed construction for a \$50,000 minimum and not to exceed \$2,000,000 between June 1, 2006 and May 31, 2007, with an option for the Mayor, or his designee, to extend the contract for up to one additional year and up to an additional \$2,000,000; provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Authorizing the expenditure of an amount not to exceed \$4,000,000 from Fund No. 30244 (CIP Construction Fund), solely and exclusively, to provide funds for the above referenced contract, of which \$2,000,000 is from Fiscal Year 2007 and \$2,000,000 is from Fiscal Year 2008, contingent on the exercise of the one-year option and provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Declaring the above contract is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3). (BID-K063360)

STAFF SUPPORTING INFORMATION:

A General Requirements Contract (GRC) as defined in Municipal Code Definition Section 22.3003 is a public works contract which contains a unit price book of detailed specifications and unit prices for typical tasks. Specific construction projects are not contemplated or authorized at the time of award.

Work is authorized as required by a separate task order that is typically under \$250,000. Task Orders are defined in the aforementioned Municipal Code Section as an authorization for construction, reconstruction, repair and maintenance work under a general requirements contract.

The Park and Recreation Department's GRC has recently expired. This contract was very successful and provided for many improvements to the park system. The work most often provided by the GRC over the past two years were sidewalk/concrete re-alignments for disabled accessibility, earth work and incidental infrastructure coordinated with low bid comfort station installations and play area upgrades, etc. Many of these smaller improvement projects in the parks are disadvantaged by the design-bid-build method which is more suited for large and/or complex projects. The GRC has been proven to reduce the time between when a smaller project is identified and when it is completed. In addition, the GRC has been proven to provide project cost savings due to streamlining the design and construction process.

The contract limit of \$2,000,000 will remain in effect for the one year term and can be renewed for a second year, with an additional \$2,000,000 limit in authorized work. After a project is identified, a site visit is scheduled where scope of work, specifications and prices are discussed between the City and the contractor. Once an agreement has been reached, the City will process a Task Authorization and issue a Notice to Proceed to the contractor. A typical improvement can be completed within three to four months from the issuance of the Notice to Proceed.

FISCAL CONSIDERATIONS:

Total authorized expenditure per contract year will not exceed \$2,000,000. The funding for each GRC Task Authorization will be drawn from individual CIP projects as approved via the annual budget process and/or previous authorizations via council action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Penera/Martinez

Staff: April Penera – (619) 525-8223
Thomas C. Zeleny – Deputy City Attorney

FILE LOCATION: CONT-Heffler Company, Inc. W.O. 250120

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-101: El Cajon Boulevard Median Improvements.

(College/Rolando Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-118) ADOPTED AS RESOLUTION R-301825

Approving the plans and specifications for construction of El Cajon Boulevard Median Improvements as advertised by Contract Services;

Authorizing the City Auditor and Comptroller to accept the donation of \$15,920 from the County of San Diego, increase the Fiscal Year 2007 Capital Improvements Program budget by appropriating \$15,920 into CIP-39-234.0, El Cajon Boulevard Median Improvements, Fund 63022, and expend said funds for the installation of community identification signs, contingent upon receipt of said funds;

Authorizing the City Auditor and Comptroller to transfer \$160,000 from CIP-68-010.0 Traffic Signal at Dayton Street and El Cajon Boulevard (Job Order 681076) to CIP-39-234.0, El Cajon Median Improvements, within Fund 30306, TransNet Commercial Paper;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$160,000 from TransNet Funds for the purpose of construction of the traffic signal at Dayton Street and El Cajon Boulevard, from CIP-39-234.0, El Cajon Boulevard Median Improvements, provided that the City Auditor and Comptroller first furnishes a certificate that the necessary funds are on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon the direction of the Mayor, to reallocate the funding sources between TransNet and Commercial Paper funded projects as may be appropriate to maximize the use of TransNet cash and reduce the use of Commercial Paper funding for CIP-39-234.0, El Cajon Boulevard Median Improvements;

Authorizing the City Auditor and Comptroller to expend \$1,810,000 from CIP-39-234.0, Funds 10524 and 10274, for the purpose of construction of El Cajon Boulevard Median Improvements, contingent upon the City Auditor and Comptroller certifying that the necessary funds are on deposit in the City Treasury;

Authorizing the Mayor, after advertising for bids in accordance with law, to award the project contract for El Cajon Boulevard Median Improvements to the lowest responsible and reliable bidder, provided that the City Auditor and Comptroller first furnishes a certificate certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

Declaring this activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301(c), as it consists of changes to existing street facilities.

STAFF SUPPORTING INFORMATION:

This project will install raised medians with decorative stampcrete, irrigation, and landscaping, along El Cajon Boulevard from 54th Street to 73rd Street. The project also includes provisions for the installation of community area signs within the medians and a new traffic signal at the intersection of El Cajon Boulevard and Dayton Street. The water services and supply conduits were installed as part of a previous project. Maintenance of the new medians will be provided by the College Heights Enhanced Maintenance Assessment District, which was established on April 27, 2004.

FISCAL CONSIDERATIONS:

The total cost of all provisions of the project is \$1,985,920. \$1,810,000 is currently available in the project; \$1,750,000 is from Tax Increment funds and \$60,000 is from a CIP Reimbursement Fund. This action will transfer the remaining \$175,920 into the project. \$160,000 of TransNet funds is available from CIP-68-010.0, Traffic Signal at Dayton Street and El Cajon Boulevard, for the installation of the traffic signal at Dayton Street and El Cajon Boulevard, and \$15,920 has been contributed by the College Area Economic Development Corp. for the community signs.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

September, 14, 2004 (R-03824) - The Redevelopment Agency provided \$1,750,000 of Tax Increment funds from the Crossroads Redevelopment Project.

September, 14, 2004 (R-299645) - City Council accepted the Redevelopment Agency funds.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The project is supported by the College Area Business Improvement District and the College/Rolando community planning group. Outreach efforts to both of these groups have been conducted on a regular basis.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

College Heights Maintenance Assessment District, College Area Business Improvement District, College Area Community Council, Eastern Area Community Planning Committee, and Crossroads Redevelopment Project Area Committee.

Boekamp/Haas

Aud. Cert. 2700061.

Staff: Richard Leja - (619) 533-3764
Jeremy A. Jung - Deputy City Attorney

FILE LOCATION: CONT-3-D Enterprises, Inc.

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-102: Award of Construction Contract – Beyer Boulevard Local Staging Area and Trail Project.

(Otay Mesa Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-81) ADOPTED AS RESOLUTION R-301826

Declaring that for and on behalf of the City, the Council expresses its appreciation to the County of San Diego and the City of Chula Vista for their generous donations to this Project;

Accepting the donations of \$300,000 from the County of San Diego and \$300,000 from the City of Chula Vista, to be used for the Beyer Boulevard Local Staging Area and Trail Project;

Directing the City Auditor and Comptroller to amend the Fiscal Year 2007 Capital Improvements Program budget to increase CIP-29-424.0, Beyer Boulevard Local Staging Area and Trail Project, by the amount of \$600,000, in accordance with the Annual Appropriation Ordinance and on receipt of the above donations;

Authorizing the City Auditor and Comptroller to deposit \$600,000 into CIP-29-424.0, Beyer Boulevard Local Staging Area and Trail Project, upon receipt of the above donations and to transfer \$200,000 within Fund No. 105052, Environmental Growth Fund, from CIP-29-913.0, Coastal Bluff Erosion and Access Project, to CIP-29-424.0, Beyer Boulevard Local Staging Area and Trail Project;

Authorizing the Mayor, or his designee, to negotiate and execute, for and on behalf of the City, an agreement with Heffler Company, Inc., for construction of the Beyer Boulevard Local Staging Area and Trail Project, in the amount of \$1,978,448.24, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Authorizing the expenditure of an amount not to exceed \$2,175,396 from CIP-29-424.0, Beyer Boulevard Staging Area and Trail Project, solely and exclusively, to provide funds for the above project, with \$2,085,396 designated for construction and \$90,000 in contingency funds, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury, and contingent on receipt of the above donations;

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

Declaring this activity is not a separate project pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(c) because this activity is a subsequent discretionary approval of a project which was adequately addressed in San Diego County Mitigated Negative Declaration Project No. 68601, SCH No. 2006041064, and there is no change in circumstance, additional information, or project changes to warrant additional environmental review.

STAFF SUPPORTING INFORMATION:

Beyer Boulevard Local Staging Area and Trail is located on Beyer Boulevard between Main Street in the City of Chula Vista and Palm Avenue in the City of San Diego, in the Otay Valley Regional Park, in the community of Otay Mesa. The Staging Area and Trail are in the west area of the Regional Park, bounded by single family homes on the south and open space on the west, east and north sides. This approximately one-acre staging area and one mile trail will provide for the needs of the projected population in Otay Mesa and it is intended to service the region as well. The proposed improvements include a parking lot, monument sign, ranger station, restroom, picnic areas, interpretive sign, walkways, security lighting, fencing, landscaping, irrigation systems, trail and other park amenities desired by the community. This project is the first phase of developing the western trail system in the Otay Valley Regional Park.

The Otay Valley Regional Park is multi-jurisdictional park with the County of San Diego and the City of Chula Vista. A Joint Exercise of Powers Agreement (JEPA) between the three jurisdictions was written and approved in 1990 and was recently amended and approved in 2006. The JEPA states that the design, construction and maintenance of the regional park will be a joint effort. To meet the intent of the JEPA the County of San Diego has generously donated \$300,000 towards the construction of the Beyer Boulevard project. The City of Chula Vista has generously donated \$300,000 towards the construction of the project's modular ranger facility and related restroom facilities.

This amount includes the return of \$100,000, originally from the City of San Diego Open Space General Fund which had been transferred to the City of Chula Vista for the purpose of purchasing the Ranger Station. However, with the development of the project, the Ranger Station will now be part of the City's capital improvement project.

The alternative to not approving the requested action will result in no project and a net loss of a \$1,000,000 State Grant funding and \$500,000 donations by the City of Chula Vista and the County of San Diego. Time is of the essence. To insure full reimbursement of the one million dollar state grant, a timely award of construction contract is critical.

As mentioned above this is the first phase of development and the first real presence at the Otay Valley Regional Park for which the City of San Diego in partnership with the City of Chula Vista and the County of San Diego is taking the responsibility of completing. As such, this project will pave the way for future improvements to this important regional park. It must be noted that, in addition to their generous monetary donation, the County of San Diego has prepared an environmental document covering this action and future improvements of the park. The County of San Diego is also in the process of securing additional funding to undertake the development of the future phases of this regional park. The improvement of this first phase of the project is paramount in realizing the overall vision for the Otay Valley Regional Park.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$2,409,396. Funding in the amount of \$1,100,000 is currently appropriated in the project. Of the remaining \$1,309,396 needed, \$509,396 was approved by City Council through the Fiscal Year 2007 budget process; \$250,000 from Environmental Growth Fund, No. 105052 and \$259,396 from Regional Park Improvement Fund, No. 10518. Approval for funding in the amount of \$800,000 is requested through this action; \$600,000 from Private and Other Contributions and \$200,000 transfer from CIP-29-913.0, Coastal Bluff Erosion and Access, Environmental Growth Fund (funding for CIP-29-913.0, Coastal Bluff Erosion and Access, Environmental Growth Fund (\$200,000) was also approved by City Council through the Fiscal Year 2007 budget process.)

Annual operating expense for this park is estimated at \$24,420. Funding for this purpose will come from Park and Recreation Department Open Space General Fund (\$17,670) and the existing Environmental Growth Fund budget for OVRP (\$6,750.) The park is expected to come on line in June 2007; therefore, the entire yearly operating costs will be included in the Fiscal Year 2008 budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Project design was reviewed and approved by the following community groups:

1. Otay Valley Regional Park Citizen's Advisory Committee, Sept. 16, 2005
2. Otay Valley Regional Park Task Force, October 27, 2005

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

1. County of San Diego
2. City of Chula Vista
3. Park Users
4. Heffler Construction, Inc.

Penera/Martinez

Staff: April Penera - (619) 533-3041
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: CONT-Heffler Company Inc./W.O 294240

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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



ITEM-103: Transfer of Funds to de Portola Fields – Comfort Station & Storage Facility.

(Tierrasanta Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-100) CONTINUED TO TUESDAY, SEPTEMBER 12, 2006

Authorizing the City Auditor and Comptroller, to transfer the amount of \$75,000 within Fund No. 79005, Tierrasanta Facilities Benefit Assessment, from CIP-29-656.0, Vista Grande Elementary School - Joint Use Improvements, to CIP-49-615.0, de Portola Fields Comfort Station & Storage Facility;

Authorizing the expenditure of an amount not to exceed \$75,000 from Fund No. 79005, Tierrasanta Facilities Benefit Assessment, CIP-29-615.0, de Portola Fields-Comfort Station & Storage Facility, solely and exclusively, to provide additional funds for construction of the project;

Declaring this activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15303 as minor new construction or conversion of an existing small structure.

STAFF SUPPORTING INFORMATION:

De Portola Fields is within the Tierrasanta Community and is nearing completion of the construction of a comfort station with associated upgrades to the path of travel and fire access. This project is incurring additional costs on the site upgrades to meet the requirements of the Division of the State Architect and additional costs due to unforeseen soil conditions.

A transfer of funds from Vista Grande to de Portola would allow the completion of de Portola Fields - Comfort Station & Storage Facility site improvements. Both Vista Grande Joint Use Area and de Portola Joint Use Area serves the Tierrasanta population, and have been funded in part by the Tierrasanta Facilities Benefit Assessment.

FISCAL CONSIDERATIONS:

Funding is available in CIP-29-656.0, Vista Grande Elementary School Joint Use Improvements, Fund 79005, Tierrasanta Facilities Benefit Assessment because the project has been completed.

ENVIRONMENTAL CONSIDERATIONS:

This activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15303 (New Construction, Conversion of Small Structures).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council authorization of the de Portola Middle School Joint Use Agreement occurred on October 10, 2005 (Ordinance O-19418). Council authorization of the Application for and Expenditure of State Grant Funds under 2002 Resources Bond Act occurred on December 7, 2004 (Resolution R-299940).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The de Portola Fields - Comfort Station & Storage Facility was presented by Councilmember Jim Madaffer, in two community groups in 2002. The consultants and City staff met with staff members of de Portola Middle School in early 2003. Subsequently, the project was noticed and presented to the Tierrasanta Recreation Council on April 10, 2003. Additional presentations to the Recreation Council occurred in June, July, and September of 2003. A presentation was given to the Facilities Access Review Committee on November 18, 2003. The Community Planning Group reviewed the plans in April 2005 and recommended approval.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Tierrasanta Recreation Council, Tierrasanta Little League, de Portola Middle School (San Diego Unified School District), Stevens Construction.

Penera/Martinez

Aud. Cert. 2700046.

Staff: April Penera - (619) 525-8223
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: CONT-El Cajon Grading Co., Inc./W.O. 173701

COUNCIL ACTION: (Time duration: 1:01 p.m. – 1:08 p.m.)

MOTION BY MADAFFER TO CONTINUE TO TUESDAY, SEPTEMBER 12, 2006 FOR FURTHER REVIEW. 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.

* ITEM-104: Northwestern Area Police Station Project.

(Carmel Valley Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-26) ADOPTED AS RESOLUTION R-301827

Authorizing the Mayor to reallocate an amount not to exceed \$173,755.85 from CIP-52-424.0, Carmel Mountain Road/I-5 Interchange, Fund No. 39063, Torrey Hills Developer Agreement Funds to CIP-36-059.0, Northwestern Area Police Station, for the purpose of the Phase II Design-Build construction contract with TB Penick and Sons, Inc. for the Project;

Authorizing the reallocation of Fund No. 39063, Torrey Hills Development Agreement Funds in the amount of \$500,000 from Fund Balance, to CIP-36-059.0, Northwestern Area Police Station for the purpose of the Phase II Design-Build construction contract with T.B. Penick and Sons, Inc. for the Project;

Authorizing the reallocation of Fund No. 79002, Carmel Valley FBA Funds, in the amount of \$159,913.15 from Fund Balance, to CIP-36-059.0, Northwestern Area Police Station, for the purpose of the Phase II Design-Build construction contract with T.B. Penick and Sons, Inc. for the Project;

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

Declaring this activity is covered under the Carmel Valley Unit No. 4 project (LDR No. 95-0237). The activity is adequately addressed in the environmental document and there are no changes in circumstances, 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, the activity is not a separate project for purposes of California Environmental Quality Act (CEQA) review per CEQA Guidelines Sections 15060(c)(3) and 15378(c).

STAFF SUPPORTING INFORMATION:

The Northwestern Area Police Station is located in the community of Carmel Valley, on a 4 acre lot on the west side of El Camino Real, at the intersection of Elijah Court. The facility consists of a Police Station (approximately 21,760, sq. ft.) and a vehicle maintenance facility (approximately 5,335 sq. ft). It also includes a vehicle wash facility, fueling station, traffic signal, driveway realignment, creation of a left turn lane into the facility, and median work. The facility is currently under construction.

On December 7, 2004, the City Council approved the Northwestern Area Police Station for a total project cost of \$19,123,988 (Resolution R-299987). The City Council also authorized the City Manager to enter a phase funded agreement not to exceed \$13,968,483 (Phase I-\$12,798,729, Phase II-\$1,169,754) with T.B. Penick & Sons, Inc. for a design-build construction contract for the Police Station. Of the amount authorized for Phase II (\$1,169,754), \$336,085 had been identified in Fund 39063, Torrey Hills Development Agreement; the remaining \$833,669 had not been identified.

Therefore, in order to fully appropriate the funding previously approved by City Council for the Northwestern Area Police Station, the reallocation of \$833,669 is needed within the Torrey Hills Development Agreement funds. Fund No. 39063 currently has an available balance of \$500,000 which can be used for CIP-36-059.0. The balance of \$173,755.85 is available in CIP-54-424.0, Carmel Mountain Road/I-5 Interchange, Fund No. 39063; and \$159,913.15 in Carmel Valley North FBA Funds, Fund No. 79002.

FISCAL CONSIDERATIONS:

There is no fiscal impact as a result of requested action. The existing unused funds in Fund No. 39063 will be used for CIP-36-059.0, Northwestern Area Police Station.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On December 7, 2004, the City Council approved the Northwestern Area Police Station for a total project cost of \$19,123,988 (Resolution R-299987).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This project has been presented to the Carmel Valley Planning Board and has been approved.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

This action will fully fund the Design-Build construction contract with T.B. Penick & Sons, Inc. and will complete the construction of Northwestern Area Police Station for the Police Department.

Boekamp/Haas

Aud. Cert. 2600931.

Staff: Afshin Oskoui - (619) 533-3102
Christina L. Bellows - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

- * ITEM-105: Agreement with the Bird Rock Development Corporation for the Administration of Contracts for Goods and Services in the Bird Rock Maintenance Assessment District for Fiscal Year 2007.

(See Report to the City Council No. 06-111. La Jolla Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-87) ADOPTED AS RESOLUTION R-301828

Authorizing the Mayor to execute a Service Agreement with the Bird Rock Development Corporation for administration of Contracts for Goods and Contracts for Services for the Bird Rock Maintenance Assessment District for a twelve-month period beginning July 1, 2006, in accordance with the San Diego Municipal Code Section 65.0212, under the terms and conditions set forth in the Agreement;

Authorizing the City Auditor and Comptroller, to appropriate and expend an amount not to exceed \$24,750 from Fund No. 70281, Bird Rock Maintenance Assessment District, for administrative fees incurred by the Bird Rock Development Corporation in the course of providing services under the Service Agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available.

Aud. Cert. 2700044.

Staff: Clay Bingham - (619) 533-6724
Alex W. Sachs - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-106: Household Hazardous Waste Agreements.

(See Report to the City Council No. 06-113.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-12) ADOPTED AS RESOLUTION R-301829

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with the County of San Diego, for residents of unincorporated areas to use the City's permanent household hazardous waste transfer facility, under the terms and conditions set forth in the Agreement, including options to renew the Agreement for three additional one-year periods;

Authorizing and directing the City Auditor and Comptroller, to deposit funds received under the above Agreement into Recycling Fund No. 41210;

Authorizing the Mayor, or his designee, to execute amendments to the above Agreement exercising the renewal options and amending the Agreement as necessary to reflect changes in services, responsibilities, costs, and funding;

Authorizing the Mayor, or his designee, to enter into similar agreements containing similar terms including, but not limited to, similar mutual indemnity provisions, with other local jurisdictions for their use of the City's household hazardous waste transfer facility;

Declaring this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061 (b)(3) because it can be seen with certainty that there is no possibility this activity will cause a significant impact on the environment.

STAFF SUPPORTING INFORMATION:

The City of San Diego has collected household hazardous waste (HHW) from its residents since November 1999 at the HHW Transfer Facility (HHWTF) located at the entrance to the Miramar Landfill. The City's HHWTF services are required per AB 2707 which passed in 1990 and which requires each City and County to provide HHW collection services for residents. In June 2000, the County of San Diego Board of Supervisors authorized the County of San Diego (County) to enter into a one-year agreement with four one-year renewal options with the City of San Diego (City) so that residents in the unincorporated areas may use the City's HHWTF.

City Council Resolution R-293557, adopted on July 24, 2000, authorized the Environmental Services Department (ESD) Deputy Director to execute the agreement and annual renewals with the County. The County's final Renewal Agreement expired in June 30, 2005. On May 18, 2005, the County of San Diego Board of Supervisors authorized the County to enter into a new agreement with the City that would continue these services for County residents. The County schedules a maximum of 10 appointments each week for County residents and ensures that the County's service request costs will not exceed \$30,000 per fiscal year. In FY 2005-2006, the City's HHWTF served 350 County residents, and the City ESD will be reimbursed an average of nearly \$81 per vehicle. The City's contractor, Clean Harbors Environmental Services (Clean Harbors), operates the City's HHWTF and provides hazardous waste collection and disposal services.

FISCAL CONSIDERATIONS:

The Agreement with the County of San Diego will be cost recoverable. For the period July 1, 2005 to August 31, 2006, the City will receive up to \$35,000 from the County for reimbursement of expenditures for HHWTF services, and this will be transferred to the Recycling Fund (41210). The County and City have the option for three (3) annual renewal agreements of \$30,000 per fiscal year, if mutually agreed upon by both parties. The Agreement also contains a mutual indemnity provision whereby each party agrees to indemnify the other for damages or injuries caused by the negligence of that party in connection with the Agreement. The City's contractor, Clean Harbors, has agreed to indemnify the City and the County for damages or injuries it causes while performing work under its contract to operate the HHWTF and has agreed to provide insurance as required by the City to both the City and the County.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

CMR No. 00-142, Household Hazardous Waste Agreements, July 24, 2000 – Approved.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents of the unincorporated area of the County of San Diego.
Clean Harbors Environmental Services.

Pratt/Heap/Haas

Staff: Linda Pratt - (858) 492-5088
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-107: Project Stewardship: Water Education for Lifelong Leadership (SWELL) Copyright License and Fee Agreement with City of Oceanside.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-33) ADOPTED AS RESOLUTION R-301830

Authorizing the Mayor, or designee, to enter into a copyright License and Fee Agreement, for and on behalf of the City, for a term not to exceed five years with the City of Oceanside School District, for the Project SWELL 5th grade curriculum;

Declaring the City Auditor and Comptroller, to accept and deposit a copyright license fee in an amount of \$10,500 from the City of Oceanside School District into the Think Blue Fund No. 105081 upon receipt of the fully executed Agreement;

Finding that this activity is not a project because this activity does not result in a direct or reasonably foreseeable indirect physical change in the environment, and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(2).

STAFF SUPPORTING INFORMATION:

In Fiscal Year 2001, the City was directed via San Diego Regional Water Quality Control Board Order No. 2001-01 to execute environmental education and outreach activities to school children regarding urban runoff, its causes, and its impact on San Diego's watersheds and unique coastal marine waters. To meet the regulation and further efforts to build environmental awareness in the community at large, the Storm Water Pollution Prevention Program's education campaign, Think Blue, embarked on a collaborative effort with San Diego Coastkeeper and the San Diego City School District to develop a kindergarten through 12th grade science curricula that would meet California Science Standards using San Diego's unique biodiversity to illustrate science principles and serve the students as a living real-world laboratory environment.

The curricula, Project SWELL - Stewardship: Water Education for Lifelong Leadership, is owned by the City of San Diego and San Diego Coastkeeper ("Licensors"). To date, the 5th grade curriculum is complete and in use in San Diego City Schools. The 4th grade curriculum was printed and delivered to San Diego City Schools in March 2006, and the 6th grade curriculum will be printed and distributed before the fall of 2006. On April 7, 2006, Council Resolution No. R-301323 was adopted, executing the Copyright Assignment and Agreement for Project SWELL, a joint project between the City of San Diego and San Diego Coastkeeper.

This resolution formalized the roles of the City of San Diego, San Diego Coastkeeper, and the Author of the curricula, protecting the copyright of the materials, art, illustrations, graphics, maps, and writings for all uses, including licensing agreements for Project SWELL.

The present action would enable the Licensors to enter into a \$10,500 License and Fee Agreement for a term of five years maximum with the City of Oceanside School District ("Licensee") for the 5th grade curriculum.

Revenues earned from the Project SWELL 5th Grade Curriculum Copyright License and Fee Agreement with the City of Oceanside School District will be used to develop additional curricula for the remaining grades.

FISCAL CONSIDERATIONS:

The City of Oceanside School District, as the Licensee, will pay the City of San Diego, as a Licensor of the Project SWELL curriculum, a \$10,500 copyright license fee to be deposited into the Think Blue Fund (105081).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Resolution No. R-301323 was adopted by the Council on April 7, 2006, for the Project SWELL-Stewardship: Water Education for Lifelong Leadership Copyright Assignment and Agreement with San Diego Coastkeeper.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

San Diego Coastkeeper is actively promoting the Project SWELL curricula to raise contributions and solicit partnerships in order to fund the development costs. The City of San Diego has information about Project SWELL curricula posted on its web site at <http://www.ThinkBlueSD.org>.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

In addition to the City of San Diego, the key stakeholders include San Diego Coastkeeper and the City of Oceanside School District.

Ferrier/Haas

Staff: Chris Zirkle - (619) 525-8644
Timothy J. Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

- * ITEM-108: Agreement between U.S. Navy and the City of San Diego for Removal of Debris from Chollas and Paleta Creeks.

(Barrio Logan Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-62) ADOPTED AS RESOLUTION R-301831

Authorizing the Mayor to execute, for and on behalf of the City, an agreement with the U.S. Navy for services required to remove debris from Chollas and Paleta Creeks;

Authorizing the expenditure of an amount not to exceed \$35,000, solely and exclusively, for the purpose of providing funds for the above services, contingent upon the City Auditor and Comptroller first furnishing one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Declaring this action is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(i), as the maintenance of existing facilities.

STAFF SUPPORTING INFORMATION:

In FY 2002, 2003, 2004 and 2005 the City of San Diego entered into an Agreement with the U.S. Navy to remove trash and debris, (see attachments: MOA and Scope of Work). The debris was floating material traveling from the City's flood control channels onto Navy property. Street Division and the Storm Water Pollution Prevention Program met with representatives from the U.S. Navy to determine an action plan. It was agreed that the City of San Diego did not have the specialized equipment needed to remove the floating debris from the Navy's property. The City also researched other alternatives to collect the debris before entering Navy property. It was determined that trash removal, street sweeping, and cleanup could be directed to the trouble spots in the creeks and the areas cleaned prior to the rainy season. It was also determined that this alone would not capture all the debris. Additionally, the City of San Diego received another letter from the California Regional Water Quality Control Board on December 18, 2002 notifying the City of the requirement to increase trash removal.

The Navy has the necessary expertise to remove the debris from the water. The Navy requires an advance payment of the estimated cost of the project as included in this Agreement.

FISCAL CONSIDERATIONS:

Funds will come from Street Division operating budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The agreement approves funding for the U.S. Navy to use specialized equipment to clean debris from the channels that originates from the City of San Diego.

Sierra/Haas

Aud. Cert. 2600799.

Staff: Mohammad Sammak - (619) 527-7540
Timothy J. Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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



ITEM-109: Specialized Legal Service Regarding the Lawsuit Michael Shames v. City of San Diego (GIC 831539).

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-1028) ADOPTED AS RESOLUTION R-301832

Authorizing the expenditure of an amount not to exceed \$25,000 from Sewer Operating Fund No. 41509, for legal services provided by Latham & Watkins, LLP, in connection with the lawsuit Michael Shames, et. al. v. City of San Diego, San Diego County Superior Court Case No. GIC 831539.

STAFF SUPPORTING INFORMATION:

Insurance coverage issues arose with respect to this class action lawsuit. The lawsuit which seeks a disgorgement of sewer fees paid by single family residents based upon the City of San Diego's failure to timely include, in its billing formula, a measure of cost for the removal of organics from wastewater. The Law Firm of Latham & Watkins, LLP has expertise in insurance coverage analysis and is familiar with the City's insurance policies at issue therein. This request for payment not to exceed \$25,000 is made because billing by Latham and Watkins, LLP for the fiscal year exceeds \$250,000.

FISCAL CONSIDERATIONS:

Funding for this action is available in Operating Sewer Fund 41509.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Law Firm of Latham & Watkins, LLP

Ferrier

Aud. Cert. 2600897.

Staff: John Riley - (619) 236-7263
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 1:08 p.m. – 1:13 p.m.)

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

* ITEM-110: Hillcrest Streetscape Improvements – University Avenue: Vermont Street to
Herbert Street.

(Uptown Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-83 Cor. Copy) ADOPTED AS RESOLUTION R-301833

Amending the FY 2007 Capital Improvements Program Budget for the Hillcrest
Streetscape Improvements: University Avenue - Vermont Street to Herbert Street
(CIP-39-213.1)(Project) by increasing the budget amount by \$110,000;

Authorizing the City Auditor and Comptroller to transfer \$110,000 from Fund
No. 79512 (Uptown Developer Impact Fees) to CIP-39-213.1 for the continued
construction of the Project, contingent upon certification of funds availability by
the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to execute Change Order No. 4 for the
continued construction of the Project, contingent upon certification of funds
availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to appropriate and expend the
\$110,000 transferred to CIP-30-213.1 for the continued construction of the
Project;

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

STAFF SUPPORTING INFORMATION:

The Hillcrest Streetscape Improvements - University Avenue: Vermont Street to Herbert Street (CIP-39-213.1) is part of a series of streetscape enhancements focused on the University Avenue/Uptown area that have been installed in the last few years. The construction from Richmond to Herbert Street has been completed. This request is to add \$110,000 in Developer Impact Fees (DIF) funding is needed to pay for unforeseen site conditions that occurred during demolition.

The additional funding will pay for the completion of pop outs, including sidewalks, curbs and gutters from Vermont Street to Richmond Street. The usage of these DIF funds qualifies under Project T4 of the Uptown Public Facilities Financing Plan. If this action and the accompanying resolution are adopted, there will be sufficient funds to complete the project. Any remaining funds will be used to fund the next phase of Hillcrest Streetscape Improvements along Normal Street.

FISCAL CONSIDERATIONS:

This request would increase the FY 2007 CIP-39-213.1 budget for Hillcrest Streetscape Improvements - University Avenue: Vermont Street to Herbert Street, by \$110,000, from the Uptown DIF Fund 79512 and authorize the City Auditor and Comptroller to accept, appropriate and expend \$110,000 in CIP-39-213.1 for the construction of the Hillcrest Streetscape Improvements: University Avenue - Vermont Street to Herbert Street. This action approves a transfer of \$110,000 from Uptown Developer Impact Fees (DIF) to complete the project. If approved, the budget for CIP-39-213.1 would increase from \$1,684,829 to \$1,794,829.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This project previously went to City Council on October 31, 2005 (R-300989) to accept \$90,000 in DIF funds for the construction of the Hillcrest Streetscape Improvements: University Avenue-Vermont Street to Herbert Street. At that time, the \$90,000 transfer was needed to award the construction contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The communities of Hillcrest and Uptown have been apprised of the progression of this project. Weekly construction meetings occur to inform property and business owners of the impacts to the area. Supporters: Hillcrest Association, Uptown Partnership.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are the business community and the property owners in the area. The requested fund transfer will enable the project to be completed.

Kawar/Waring

Aud. Cert. 2600881.

Staff: Alicia Martinez-Higgs - (619) 533-5166
Michael D. Neumeyer - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-111: Three actions related to FY 2007 Assessment Levy and Update Assessment Engineer's Reports.

(See Adams Avenue, Central Commercial, City Heights, College Heights, Little Italy, Newport Avenue, and Downtown Property & Business Maintenance Assessment Districts Engineer's Reports. Centre City, College Area, City Heights, North Park, Ocean Beach, and Southeastern Community Areas. Districts 2, 3, 7, and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-40) ADOPTED AS RESOLUTION R-301834

Authorizing the levy and collection of assessments in the City for the Fiscal Year 2007 pursuant to the provisions of the California Streets and Highways Code Sections 22500 et seq. and San Diego Municipal Code Chapter 6, Article 5, Division 2 (Law) to pay a proscribed portion of the cost of future maintenance of improvements. These improvements are more generally described in the assessment engineers' reports, submitted in connection with the Maintenance Assessment Districts (Districts) and on file in the Office of the City Clerk.

1. Adams Avenue Maintenance Assessment District
2. Central Commercial Maintenance Assessment District
3. City Heights Maintenance Assessment District
4. College Heights Maintenance Assessment District
5. Little Italy Maintenance Assessment District
6. Newport Avenue Maintenance Assessment District
7. Downtown PBID Maintenance Assessment District

Declaring that the maintenance consists in general of the maintenance of those contained in the assessment engineer's reports (Reports) submitted in connection with the Districts, and filed in the Office of the City Clerk as follows:

| <u>Maintenance Assessment District</u> | <u>Document Number</u> |
|-----------------------------------------------|-------------------------------|
| 1. Adams Avenue | RR-_____ |
| 2. Central Commercial | RR-_____ |
| 3. City Heights | RR-_____ |
| 4. College Heights | RR-_____ |
| 5. Little Italy | RR-_____ |
| 6. Newport Avenue | RR-_____ |
| 7. Downtown PBID | RR-_____ |

Declaring that the Districts are described as follows:

All that real property in the City of San Diego included within the exterior boundary lines of the maps designated as the Districts, filed in the Office of the City Clerk as follows:

| <u>Maintenance Assessment District</u> | <u>Document Number</u> |
|-----------------------------------------------|-------------------------------|
| 1. Adams Avenue | M-_____ |
| 2. Central Commercial | M-_____ |
| 3. City Heights | M-_____ |
| 4. College Heights | M-_____ |
| 5. Little Italy | M-_____ |
| 6. Newport Avenue | M-_____ |
| 7. Downtown PBID | M-_____ |

excepting there from all public streets, roads, alleys, avenues and highways. Reference is hereby made to the maps and the Reports for a further and more particular description of the Districts so on file. Such maps and Reports shall govern for all details as to the extent of the Districts;

Declaring that the maintenance and expense of the contemplated maintenance are made chargeable upon the Districts, and the Council does declare that certain properties within the Districts receive special benefit from the maintenance of the improvements;

Declaring the City Council shall assess those properties within the Districts which receive a special benefit from the maintenance for the total amount of the maintenance costs of the Districts, plus incidental expenses thereto, to be received by the individual parcels of real property within the Districts;

Declaring a portion of the costs of maintenance to be paid by the City from appropriate funds. The proposed budget for the Districts are as follows:

| <u>Maintenance Assessment District</u> | <u>Amount</u> |
|----------------------------------------|---------------|
| 1. Adams Avenue | \$ 50,200 |
| 2. Central Commercial | \$218,536 |
| 3. City Heights | \$302,095 |
| 4. College Heights | \$274,189 |
| 5. Little Italy | \$667,546 |
| 6. Newport Avenue | \$ 53,986 |
| 7. Downtown PBID | \$5,781,029 |

A statement of the assessments levied against the several lots or parcels of land as shown on the maps referred to in Section 2 above, are on file in the Office of Community and Economic Development.

Referencing is hereby made to the Reports for a statement of the assessments upon assessable lots and parcels of land within the Districts.

Subitem-B: (R-2007-41) ADOPTED AS RESOLUTION R-301835

Declaring that the Reports submitted in connection with the Maintenance Assessment Districts and filed in the Office of the City Clerk as follows:

| <u>Maintenance Assessment District</u> | <u>Document Number</u> |
|----------------------------------------|------------------------|
| 1. Adams Avenue | RR-_____ |
| 2. Central Commercial | RR-_____ |
| 3. City Heights | RR-_____ |
| 4. College Heights | RR-_____ |
| 5. Little Italy | RR-_____ |
| 6. Newport Avenue | RR-_____ |
| 7. Downtown PBID | RR-_____ |

be and the same are hereby approved for purposes of this hearing.

Subitem-C: (R-2007-110) ADOPTED AS RESOLUTION R-301836

Authorizing the City Auditor and Comptroller to appropriate and expend Self Managed Maintenance Assessment District and Property and Business Improvement District funds for Fiscal Year 2007.

STAFF SUPPORTING INFORMATION:

The purpose of self-managed Maintenance Assessment District (MAD) is identical to other MADs in which property owners assess themselves to receive enhanced maintenance, landscaping, and lighting services. Self-managed MADs differ from the City's Park & Recreation Department managed MADs in that district property owners select, by ballot, a non-profit corporation to contract for the provision of enhanced goods and services. The San Diego Municipal Code allows non-profit corporations to administer MADs when an assessment weighted majority of district property owners support the selection of a particular non-profit corporation for their district.

The Fiscal Year 2007 assessments for the City's Self-Managed Maintenance Assessment Districts (MADs) and Property and Business Improvement District (PBID) are each managed by various local non-profit organizations and are overseen by the Economic Development Division of the City Planning and Community Investment Department. MADs and PBIDs are authorized by law to assess benefiting property owners for maintenance and other property related activities. These activities include maintenance of landscaped and paved medians, landscaped right-of-ways and slopes, open space, parks, ponds, flood control channels, monuments, decorative street lighting, decorative gates, signage, banners, as well as cleaning of curbs and gutters, sweeping sidewalks, provisions of security services, and monitoring.

State law requires that the City Council annually approve the assessment levy for each MAD and PBID and to update each of the districts' Assessment Engineer's Report. The resolutions associated with this action would authorize the City to place the annual assessment levy for each self-managed MAD and PBID on the FY 2007 County Property Tax roll. The resolutions also fulfill the legal requirements necessary for each self-managed MAD and PBID to provide the maintenance and other services as described in the Assessment Engineer's Reports.

The Economic Development Division currently manages the City's seven Self-Managed Maintenance Assessment Districts and also manages the Downtown PBID. In accordance with State Law, staff is recommending that the updated Assessment Engineer's Reports and the associated annual levy of assessments be authorized.

Based on data contained in the updated Assessment Engineer's Reports, the following list provides the recommended assessment levels for each of the six self-managed MADs and PBID in FY 2007.

| <u>District</u> | <u>Assessment District Levy</u> |
|---------------------------|--------------------------------------------|
| 1. Adams Avenue MAD | \$50,200 |
| 2. Central Commercial MAD | \$218,536 |
| 3. City Heights MAD | \$302,095 |
| 4. College Heights MAD | \$274,189 |
| 5. Little Italy MAD | \$667,546 |
| 6. Newport Avenue MAD | \$53,986 |
| <u>7. Downtown PBID</u> | <u>\$5,781,029</u> |
| Total | \$7,347,581 |

This action authorizes approval of the Fiscal Year 2007 Assessment Engineer's Reports, and authorizes the levy and collection of assessments for the above Maintenance Assessment Districts.

FISCAL CONSIDERATIONS:

The Fiscal Year 2007 MAD budget was approved by City Council on May 3, 2006. This action refines the anticipated assessment revenue estimate for Fiscal Year 2007. The annual MAD assessment for City owned property for Fiscal Year 2007 is \$316,115.92.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

City Council Budget Hearing on May 3, 2006.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are the business community and the property owners within the self-managed districts.

Anderson/Waring

Staff: Luis E. Ojeda - (619) 533-4246
Alex W. Sachs - Deputy City Attorney

FILE LOCATION: STRT-M-504 (34)

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-112: Four actions related to Annual Special Tax Levy - Community Facilities Districts No. One, Two, Three and Four.

(Black Mountain Ranch, Peninsula, and Miramar Ranch North Community Areas. Districts 1, 2, and 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-66) ADOPTED AS RESOLUTION R-301837

Declaring that in accordance with the Act and the Ordinance, there is hereby levied upon the parcels of land within Community Facilities District (CFD) No. 1, the special taxes for Fiscal Year 2006/2007 at the tax rates set forth in the Rate and Method of Apportionment of Special Taxes and reflected in the report entitled "Community Facilities District No. 1 Annual Levy of Special Tax - Fiscal Year 2006-2007".

Subitem-B: (R-2007-67) ADOPTED AS RESOLUTION R-301838

Declaring that in accordance with the Act and the Authorizing Documents, there is hereby levied upon the parcels of land within each of Improvement Area No. 1, Improvement Area No. 3, and Improvement Area No. 4 of Community Facilities District (CFD) No. 2, the special taxes for Fiscal Year 2006/2007 at the tax rates set forth in the Rate and Method of Apportionment of Special Taxes and reflected in the reports entitled "City of San Diego Community Facilities District No. 2 Improvement Area No. 1 Administration Report Fiscal Year 2006-2007," "City of San Diego Community Facilities District No. 2 Improvement Area No. 3 Administration Report - Fiscal Year 2006-2007," and "City of San Diego Community Facilities District No. 2 Improvement Area No. 4 Administration Report - Fiscal Year 2006-2007".

Subitem-C: (R-2007-68) ADOPTED AS RESOLUTION R-301839

Declaring that in accordance with the Act and the Ordinance, there is hereby levied upon the parcels of land within each of Improvement Area No. 1 and Improvement Area No. 2, of Community Facilities District (CFD) No. 3, the special taxes for Fiscal Year 2006/2007 at the tax rates set forth in the Rate and Method of Apportionment of Special Taxes and reflected in the report entitled "City of San Diego Community Facilities District No. 3 Improvement Area Nos. 1 and 2 Administration Report - Fiscal Year 2006-2007".

Subitem-D: (R-2007-79) ADOPTED AS RESOLUTION R-301853

Declaring that in accordance with the Act and the Ordinance, there is hereby levied upon the parcels of land within Community Facilities District (CFD) No. 4, the special taxes for Fiscal Year 2006/2007 at the tax rates set forth in the Rate and Method of Apportionment of Special Taxes and reflected in the reports entitled "City of San Diego Community Facilities District No. 4 Administration Report - Fiscal Year 2006-2007".

STAFF SUPPORTING INFORMATION:

The City Council has previously adopted resolutions and ordinances that established CFD No. 1, CFD No. 2, CFD No. 3, and CFD No. 4 (the "Districts"). Among other things, these previous actions: authorized the issuance of limited obligation special tax bonds to finance the construction and acquisition of public infrastructure serving the Districts and/or communities impacted by development associated with the Districts; authorized the levy of a special tax to pay principal, interest and other periodic costs with respect to the bonds and/or to pay directly for the costs of authorized facilities; and approved the Rate and Method of Apportionment of Special Taxes, which is the formula used to determine the amount of special tax to be levied on taxable parcels within each District. In addition, for those districts in which special tax bonds have been issued, the City Council, acting as the legislative body of each district, has specifically covenanted to levy the associated special tax in an amount sufficient to meet the applicable defined special tax requirement. Pursuant to the Mello-Roos Community Facilities Act of 1982, the City Council must provide for the annual levy of special taxes by adopting a resolution and filing a certified list of all parcels subject to the special tax levy with the County Auditor on or before August 10th of each tax year. Prior to such date, City staff confirms the parcels to be levied with the County's equalized tax roll, which is produced on or around July 1st of each year, as the special taxes are billed and collected by the County of San Diego in the same manner as ordinary ad valorem property taxes.

This City Council action would approve the Fiscal Year 2007 special tax rates and total amount of special taxes to be levied and collected on taxable property within the boundaries of the Districts. The special taxes are calculated in accordance with each District's Rate and Method of Apportionment of Special Taxes, and the Fiscal Year 2007 special tax rates are generally consistent with previous years, with the exception of CFD No. 2 Improvement Areas 1 and 3. Pursuant to the taxing formula for CFD No. 2, the assigned special tax rates are subject to a programmed 2% increase. However, for Improvement Areas 1 and 3, the tax rates have been reduced from the previous year, reflecting a proportional reduction in the amounts required to be levied to meet the Special Tax Requirement, as defined in the applicable Rate and Method of Apportionment.

Special taxes to be levied against taxable parcels of land within each District for the upcoming fiscal year are reflected in the reports submitted herewith. As the special taxes for CFD No. 1, CFD No. 2, and CFD No. 3 are designated primarily to make debt service payments on each of the Districts special tax bonds, should this action not be approved, insufficient funds would be available to meet the annual debt service obligations related to the Districts. As stated above, the City Council acts as the legislative body of each district and through the bond issuance process has specifically covenanted to levy the associated special taxes to pay the debt service on the bonds

FISCAL CONSIDERATIONS:

Pursuant to the Rate and Method of Apportionment of Special Taxes for each District, monies received in the form of special taxes will be used to pay debt service on each District's outstanding bonds, if any, and/or pay directly for public facilities, maintain the appropriate balance in the reserve fund for each District, if any, and pay costs incurred by the City in administering the Districts. The anticipated total levy amount for Fiscal Year 2007 for each of the Districts follows:

- CFD No. 1 - \$4.24 million
- CFD No. 2 Improvement Area 1 - \$4.75 million
- CFD No. 2 Improvement Area 3 - \$327,000
- CFD No. 2 Improvement Area 4 - \$739,000
- CFD No. 3 - \$1.45 million
- CFD No. 4 - \$775,000

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Each year since inception of the Districts, the special tax levies have been presented to the City Council for approval, in accordance with the Mello-Roos Community Facilities Act of 1982. Special taxes were first levied within each of the Districts as follows: CFD No. 1 (Fiscal Year 1993), CFD No. 2 - Improvement Areas 1 and 3 (Fiscal Year 2002), Improvement Area 4 (Fiscal Year 2004), CFD No. 3 (Fiscal Year 2004) and CFD No. 4 (Fiscal Year 2004).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None required.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

- Investors who hold the associated bonds of each District who will receive principal and interest payments on the bonds payable from the special taxes.
- Property owners within each of the Districts (an aggregate of approximately 5,000) who are responsible for payment of the associated special taxes.
- Certain developers who will be reimbursed from special tax proceeds for the costs of constructing certain public facilities.

Kommi/Goldstone

Staff: Elizabeth Kelly - (619) 236-6932
Mark D. Blake – Chief Deputy City Attorney

FILE LOCATION: STRT-CF-5 (58)

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-113: Amendment to Meyers Nave Contract for State Route 56 Litigation.

(Carmel Valley, Pacific Highlands Ranch, Torrey Highlands, and Rancho Peñasquitos Community Areas. District 1.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-99) ADOPTED AS RESOLUTION R-301840

Authorizing the City Attorney, to execute, for and on behalf of the City, an amendment to the contract with Meyers Nave Riback Silver & Wilson, for an additional amount not to exceed \$350,000, under the terms and conditions set forth in the original contract and any amendments thereto;

Authorizing the expenditure of an amount not to exceed \$350,000 from Fund 38961, Dept. 30244, Org. 107, Account 4279, CIP-52-463.0, to provide funds for the above contract amendment;

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

SUPPORTING INFORMATION:

The City has resolved all litigation related to the acquisition of properties needed for the State Route 56 right-of-way, either through trials or settlement. Overall, the City has paid more than \$20 million less for the acquisitions than the property owners demanded. The Meyers Nave law firm has represented the City throughout the litigation. Previously, the Council authorized the expenditure of \$2,885,000 to the firm for the State Route 56 middle segment property acquisitions: \$600,000 on July 24, 2001, \$750,000 on December 9, 2003, and \$1,535,000 on June 8, 2004. An additional \$350,000 is needed to resolve outstanding bills and complete the acquisition process.

FISCAL CONSIDERATIONS:

The money will be paid out of the \$24 million in State Route 56 funds approved by SANDAG on October 24, 2003.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Council previously authorized the expenditure of \$2,885,000 to the Meyers Nave firm for the State Route 56 middle segment property acquisitions: \$600,000 on July 24, 2001, \$750,000 on December 9, 2003, and \$1,535,000 on June 8, 2004.

Aguirre/Haas

Aud. Cert. 2700048.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-114: California Civil Liberties Public Education Program Grant Funds from the California State Library.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-69) ADOPTED AS RESOLUTION R-301841

Authorizing the Mayor, or designee, for and on behalf of the City, to accept and expend the California Civil Liberties Public Education Program grant funds from the California State Library for producing the "Dear Miss Breed" program (Project);

Declaring this activity is not a project subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3);

Authorizing the City Auditor and Comptroller to establish all required fund numbers, department numbers, and expense and revenue accounts to facilitate the process of tracking revenue and expenditures specifically for the "Dear Miss Breed" program.

STAFF SUPPORTING INFORMATION:

Created in 1999, the California Civil Liberties Public Education Program (CCLPEP) was the result of the passage of the California Civil Liberties Public Education Act. Its purpose is to provide competitive grants for public educational activities and the development of educational materials to ensure that the events surrounding the exclusion, forced removal and incarceration of civilians and permanent resident aliens of Japanese ancestry will be remembered and so that causes and circumstances of this and similar events may be illuminated and understood.

In 1998 the Japanese American National Museum (JANM) was awarded a CCLPEP grant to digitize archives that included the Clara Breed letter collection: personal papers, manuscripts and assorted published materials of Clara Breed, a San Diego children's librarian during 1928 to 1945. The collection included correspondence from some of the several dozen Japanese American children from San Diego who were incarcerated in the Santa Anita Assembly Center and Poston Relocation Center during World War II. They wrote more than 250 letters between 1942 and 1945 to Miss Breed.

The San Diego Public Library (SDPL) will utilize this collection and a book by Joanne Oppenheim, *Dear Miss Breed: True Stories of the Japanese American Incarceration During World War II and A Librarian Who Made a Difference*. In cooperation with SDPL, the Asian Story Theater and Joanne Oppenheim will adapt her book into a play that will be presented to middle and high school students in San Diego.

The grant project will educate middle and high school youth about children's librarian Clara Breed, whose actions illustrate how the commitment of a single person can profoundly touch the lives of those disenfranchised. Her actions, like those of the many people who reached out and helped Japanese Americans during this time, were all the more remarkable because of the widespread fear and hatred that was associated with anything Japanese.

The evening theatrical performances and lecture by David Cole, Georgetown University Law Center professor, as well as the film programs will be the springboard that will help the audiences reflect on the complex issues surrounding civil liberties and fundamental human rights and relate this awareness to the lessons learned from the Japanese American internment.

FISCAL CONSIDERATIONS:

Through the LSTA grants, SDPL staff is requesting from the California State Library \$73,359 for "Dear Miss Breed." The grant funds will be matched by the library through in-kind contributions of employee salaries and department equipment already in use, as well as private donations for the purchase of additional materials. If application and acceptance of these grants is not approved, the department will be unable to provide this valuable programming and materials.

PREVIOUS COUNCIL COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

City TV, the City of San Diego's cable access channel, will produce a documentary Remembering Miss Breed. Archival photographs will be interwoven with recent interviews of former internees, and several of Miss Breed's colleagues, who worked with her during and after World War II. The DVDs will be distributed to all middle and high schools in the City, the Central Library and all City and County branch libraries. SDPL's California Room will archive a copy for posterity. City TV will broadcast David Cole's lecture and make copies for all city libraries.

A photographic exhibit on Clara Breed, from the San Diego Public Library's archives, will be mounted on a wall in the lobby of the Central Library, the facility which she was instrumental in building.

The Central Library and Weingart/City Heights Performance Annex will present CCLEP funded films from SDPL's collection in February for Remembrance Day (of the Japanese Internment) and in May for Asian Pacific American Heritage Month.

Eleven of the 35 SDPL branches will host intergenerational book discussions using Dear Miss Breed. Joanne Oppenheim has agreed to facilitate one of the discussions.

Chula Vista Library system will work with San Diego Public Library to create venues at two high schools and two middle schools, where Joanne Oppenheim can speak with youth. They will also recruit classes to attend the play.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Friends of San Diego Public Library, Scholastic Publishers, San Diego Repertory Theater, Japanese American National Museum, City TV, Chula Vista Public Library, San Diego High School of Creative and Performing Arts, and San Diego City Schools. The projected impact will be citywide education of this important part of San Diego history, as well as providing reference materials for future generations so that the lessons learned will not be lost.

Tatar/Martinez

Staff: Dianne Parham - (619) 236-5893
Michael P. Calabrese - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-115: Three actions related to Grant of Property Rights to San Diego County Water Authority and San Diego Gas & Electric Company (SDG&E) in Connection with the Emergency Storage Project (Expansion of San Vicente Reservoir).

(San Vicente Reservoir Community Area.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-130) ADOPTED AS RESOLUTION R-301842

Declaring pursuant to the CEQA Guidelines (California Code of Regulations Section 15096(f)), the City has considered the Supplemental Subsequent Environmental Impact Report (SSEIR) and the environmental effects of the project as shown in the SSEIR;

Declaring the City has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it will carry out;

Declaring the City is responsible for carrying out the following parts of the project: the granting or conveyance of those interests in various real property to CWA as fully described in R-2007-102 Cor. Copy;

Declaring with respect to those parts of the project that the City will carry out, there are no direct or indirect environmental effects over which it has control or oversight;

Declaring there are no feasible alternatives or feasible mitigation measures that are within City Powers that will avoid or lessen any significant effect from the project; and

Declaring pursuant to the CEQA Guidelines (California Code of Regulations Section 15091(a)(2), the SSEIR as adopted and certified by CWA identifies one or more significant environmental effects of the project; however, any and all necessary project changes or alterations are within the responsibility and jurisdiction of CWA or other public agencies and not the City making the findings herein. Such changes and/or alterations have been adopted by CWA or other public agencies or can and should be adopted by such other agencies;

Adopting the Findings made in the SSEIR with respect to the project, pursuant to CEQA (California Public Resources Code Section 21081) and the CEQA Guidelines (California Code of Regulations Section 15091);

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, pursuant to the CEQA Guidelines [California Code of Regulations Section 15096(i)].

Subitem-B: (R-2007-102 Cor. Copy) ADOPTED AS RESOLUTION R-301843

Authorizing the Mayor, or his designee, to execute a Grant Deed in favor of CWA in the form on file in the Office of the City Clerk, affecting APN Numbers 326-061-02 and 326-061-11 as more particularly described in the Grant Deed;

Authorizing the Mayor, or his designee, to execute two Permanent Easement Deeds in favor of the San Diego County Water Authority in the forms on file in the Office of the City Clerk, affecting APN Numbers 326-061-02, 326-061-11, and 329-121-03 as more particularly described in the Permanent Easement Deeds;

Authorizing the Mayor, or his designee, to execute three Temporary Construction Easement Deeds in favor of the San Diego County Water Authority in the forms on file in the Office of the City Clerk, affecting APN Numbers 326-061-02, 326-061-11, 326-061-12, and 329-121-03 as more particularly described in the Temporary Easement Deeds;

Declaring the proceeds for the above-described deeds be deposited into Water Capital Outlay Fund 30246;

Declaring the processing fee be deposited into Water Department Fund 41500.

Subitem-C: (R-2007-103 Cor. Copy) ADOPTED AS RESOLUTION R-301854

Authorizing the Mayor, or his designee, to execute an Easement Deed (Deed) in favor of SDG&E in the form on file in the Office of the City Clerk affecting APN Number 326-061-11, as more particularly described in the Deed;

Declaring the Deed proceeds be deposited into Water Capital Outlay Fund 30246;

Declaring this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 because this activity involves the minor alteration of an existing facility wherein the proposed activity will involve negligible or no expansion of use existing at the time the exemption is granted.

STAFF SUPPORTING INFORMATION:

On May 26, 1998, Council approved an agreement between the San Diego County Water Authority (CWA) and the City of San Diego (Document 00-18521-1) for the San Vicente Project phase of the Emergency Storage Project (ESP) which includes the San Vicente pump station and flowage system, surge control facility and interconnect pipelines. The ESP, in conjunction with the San Vicente pipeline, will allow the transportation of water between the San Vicente Reservoir and Lake Miramar for use by the City's Miramar Water Treatment Plant. The project will also allow CWA to fill San Vicente Reservoir with water from the Second Aqueduct and protect pipelines from damage should any sudden pump or valve failures occur within the water system.

Under the agreement, CWA requires the following: 1) one fee parcel for their surge control overflow tank site containing approximately 1.623 acres; 2) two permanent easements for their pipeline and reservoir filling system and access road with a combined total of approximately 15.103 acres; and 3) three temporary construction easements with a combined total of approximately 57.1 acres. In order to accommodate for the ESP project, SDG&E is required to relocate an existing overhead line, which will require an easement from the City. The SDG&E easement contains approximately 0.17 acres. After the relocation of its facilities is complete, SDG&E will Quitclaim the existing 3,600 square foot easement (San Diego County document No. 146960, recorded on August 16, 1965) to the City.

FISCAL CONSIDERATIONS:

The County Water Authority has agreed to pay the appraised value of \$442,200, which reflects the fair market value for the CWA fee and easement purchases, as well as the SDG&E easement rights. The appraised amount of \$442,200 will go into Chicago Title Escrow Account No. 603040667, to be deposited into Water Department Capital Outlay Fund No. 30246. CWA will also pay a separate processing fee to the City of San Diego Water Department, Fund 41500, Revenue Account No. 77438, for the labor and overhead related to processing these seven deeds. To date the processing fees are approximately \$20,000.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

May 26, 1998 Council approval of CWA and City of San Diego Agreement (Document No. 00-18521-1).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

KEY STAKEHOLDERS & PROJECTED IMP ACTS:

San Diego County Water Authority and San Diego Gas & Electric.

Barwick/Haas

Staff: Steve Geitz - (619) 236-6311
Lori W. Girard - Deputy City Attorney

FILE LOCATION: DEED F-10002

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-116: Amendment to Residential Parking Area B.

(See Report to the City Council 06-108. College Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-4) ADOPTED AS RESOLUTION R-301844

Adding pursuant to the authority conferred by and in accordance with the requirements of Division 20 of Article 6 of Chapter 8 of the San Diego Municipal Code, that portion of the 5000-block of La Dorna Street, between Montezuma Road and: the northerly property line of 5075 La Dorna Street on the east curblin, and the northerly property line of 5074 La Dorna Street on the west curb line, to Residential Permit Area B;

Finding this activity is the modification of an existing facility that does not result in an expansion beyond the existing use, and is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

STAFF SUPPORTING INFORMATION:

The Residential Permit Parking Program was established to mitigate the impact on residential areas of long-term commuter parking generated by a facility such as a large college, a hospital, or a major industrial center. Since the program was enacted in 1977, five Residential Permit Parking Districts have been created. Residential Permit Parking Area "B", in the San Diego State University area, was established in 1984. This would be the fifth expansion of that district. This action was initiated in response to a petition representing 71% of the affected residences. This action has the support of the College Area Community Council.

FISCAL CONSIDERATIONS:

The current fee for annual permits in Area "B" is \$14, as established by the City Council. Average permit sales in Area "B" are 2 permits per address. The maximum number of permits allowed per address is 4. Accordingly, it is estimated that the probable annual revenue from permit sales for the 14 residences on La Dorna Street would be about \$392 (based on 28 permits at \$14 per permit). According to a recent Parking Management review, the actual administrative and enforcement cost to the City, on a per permit basis, is \$45.

Consequently, the addition of La Dorna Street would result in an annual deficit of about \$868 (given an annual cost of \$1,260 minus \$392 in estimated revenue). Additionally, there would be an initial start-up expense for the installation of 8 regulatory signs, at a cost of \$150 per sign, for a total of \$1,200; this cost is neither budgeted by, nor recoverable from, the revenues generated by permit sales, and would be paid for by the General Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In accordance with the requirements of Section 86.2006 of the Municipal Code, a public hearing was held in conjunction with the monthly meeting of the College Area Community Council (CACC) on April 12, 2006. The results of the study were presented, and public comment was offered by residents of La Dorna Street and others in the community. Favorable input was received from those residents of La Dorna Street present at the meeting, after which the board of the CACC unanimously approved of the request to include La Dorna Street in Residential Permit Parking Area "B".

Groups supporting the expansion of Area "B": College Area Community Council. Groups opposing the expansion of Area "B": None of which we are aware.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The proposed action would relieve the residents of the 5000 block of La Dorna Street of the presence of non-resident parkers. There would be an impact on those non-resident parkers currently utilizing La Dorna Street, in that they would have to find another place to park. These non-resident parkers could be expected to continue to park on La Dorna Street, north of the new boundaries of Area B. This could result in an impact on the northerly section of La Dorna Street similar to that recorded within the petitioning area. There are no businesses in the area to experience an impact on employees or customers.

Boekamp/Haas

Aud. Cert. 2600954.

Staff: Deborah Van Wanseele - (619) 533-3012
Tim Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-117: State Regional Enterprise Zone Application.

(See Report to the City Council No. 06-112. College Area, City Heights, North Park, Logan Heights, Barrio Logan, Sherman Heights, Stockton, Southcrest, Mountain View, Mt. Hope, Shelltown, Lincoln Park, Valencia Park, Chollas View, San Ysidro, Otay Mesa/Nestor, and Otay Mesa Community Areas. Districts 3, 4, 7, and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-88) ADOPTED AS RESOLUTION R-301845

Adopting a boundary of the proposed EZ as described in Exhibit "A";

Adopting an overall line-item budget for year one of the EZ that reflects the sources and uses of funds as described in Exhibit "B";

Finding the application area is a depressed area and designation of the application area as an enterprise zone is necessary in order to attract private sector investment to the application area;

Authorizing the application for EZ designation to be filed with the California Housing & Community Development Department no later than September 6, 2006;

Authorizing and supporting job development, job creation, and economic development;

Authorizing the City Planning and Community Investment, Economic Development Division, as the local program administrator, to have staff available to maintain recordkeeping, provide monthly updates on zone activities, and to discuss these activities with Enterprise Zone Program auditors;

Declaring the City of San Diego shall develop a self-evaluation process to measure its progress in meeting its goals and objectives; and, said process shall be submitted to the HCD for review, approval, and inclusion in the Memorandum of Understanding between HCD and the Partnership prior to Final Designation;

Agreeing to complete all actions stated within the application that apply to its jurisdiction should the proposed EZ be awarded designation;

Directing the Mayor, or his designee, from City Planning and Community Investment, Economic Development Division to:

- a) Execute and submit the required documentation to the California Housing and Community Development Department for consideration, review, and approval of the application;

- b) Prepare and submit a first-year budget for the administration of the EZ; and
- c) Execute a Memorandum of Understanding with the Partnership for the administration of the EZ, including delineating and allocating financial, staffing, reporting, and all other responsibilities among the members of the Partnership.

STAFF SUPPORTING INFORMATION:

In 1986 and 1992 the City of San Diego received approval for two enterprise zone designations, the Metro Enterprise Zone (1986) and the South Bay Enterprise zone (1992). In 2000 and again in 2004, the South Bay Enterprise Zone was expanded to include properties along the Bayfront redevelopment areas of the Cities of Chula Vista and National City. In turn, the Cities of Chula Vista, National City in collaboration with the Port of San Diego, provided funding to the City of San Diego to support the cost of managing the program and to enhance a marketing campaign for the zone. Because San Diego's economy is regional in nature, collaborating with other local cities and the state to expand business incentives increases San Diego's ability to compete with other regions, create new jobs, and increase investment in our county. These two existing enterprise zones are due to expire shortly. The Metro Enterprise Zone will expire on October 14, 2006, and the South Bay Enterprise zone will expire on January 27, 2007. San Diego's current EZ program has made a significant impact on the local economy. Since its inception in 1986, the San Diego Enterprise Zone program has assisted in retaining and creating over 19,000 area jobs, increasing private investment by nearly \$1 billion, and providing permit expediting, financial and technical assistance to thousands of local companies. San Diego companies have earned between \$250 and \$400 million in state EZ tax credits.

DISCUSSION:

The Economic Development Division staff in collaboration with the Cities of Chula Vista and National City is engaged in the task of completing an application for designation for a multi-jurisdiction or regional enterprise zone (EZ) due to be filed with the California Department of Housing and Community Development (HCD) no later than September 6, 2006. HCD has a Request for Proposals (RFP) for new applications by local governments to be designated as EZs for 15 years. An enterprise zone is a geographical area in which companies are eligible for exclusive state incentives and programs including: tax credits for hiring qualified employees. The legislative purposes of the EZ Program are as follows: to stimulate business growth in economically distressed areas; help attract business; help retain expand business; and create job opportunities. EZs are competitively designated based upon distress criteria (primarily poverty and unemployment levels) and local government's capacity to carry out an economic development program. They must provide additional local incentives, and are designated for 15 years.

The proposed EZ application would confer a significant economic and employment incentive program to the Cities of San Diego, Chula Vista, and National City. If approved, administration responsibilities will be identified in a MOU with each City. Given the offer of financial support and the geographic and cultural connectivity of the area, City staff views this application as a unique opportunity to continue and expand the regional collaboration of an economic development partnership.

FISCAL CONSIDERATIONS:

There will be ongoing staff time required to complete the EZ Application and then to administer the EZ after designation. As part of the Application, a proposed First-Year Budget must be approved by the City of San Diego as the Regional Enterprise Zone Administrator. This is a projected operating budget for the first year of marketing and administration of the proposed EZ. Our local jurisdiction is required to adopt the attached line item budget for Year One of the proposed EZ, which also reflects the partners' (Chula Vista and National City) sources and uses of funds. This budget is intended to represent a multi-year financial commitment by San Diego, Chula Vista and National City for the 15-year life of the EZ. This budget is also intended to ensure that the EZ Manager is properly budgeted and staffed at a level that will ensure compliance with the voucher program requirements as promulgated by the HCD and to meet the demands of a large regional EZ. Additionally, a RFP was issued to hire a consultant to assist with the submittal of the EZ application. Tassa Consulting Group, LLC from Sacramento was selected. San Diego's obligation of the contract is not to exceed \$25,500.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On July 12, 2006, the Otay Mesa/Nestor Community Planning Group unanimously voted to support the City's application for a new Enterprise Zone designation.

On July 18, 2006, the San Ysidro Community Planning Group voted unanimously to support the City's application for a new Enterprise Zone designation.

On July 19, 2006, the Otay Mesa Community Planning Group unanimously voted to support the City's application for a new Enterprise Zone designation.

On August 17, 2006, staff is scheduled to do a presentation at the Diamond BID Board meeting.

In August, staff will do a presentation to the Barrio Logan PAC.

On September 11, 2006 staff will do a presentation to the Southeast Planning Committee.

Economic Development Division staff will continue its public outreach efforts during the month of August and September 2006 to the various community groups within the application area.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

There are no key stakeholders. Projected impacts for the Regional EZ are new private investment and the creation and retention of jobs to the EZ communities.

Kessler/Waring

Staff: Lydia Moreno - (619) 533-7512
Jana L. Garmo - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-118: Settlement of Property Damage Claims of Metzger Investments, L.P. and Reinhold Metzger.

(District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-84) ADOPTED AS RESOLUTION R-301846

A Resolution approved by the City Council in Closed Session on Tuesday, April 25, 2006, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Council President Pro-Tem Young-yea; Maienschein-not present; Frye-yea; Madaffer-yea; Hueso-yea.

Authorizing the Mayor, or his designee, to pay a sum not exceeding \$3,500,000 in the settlement of each and every claim against the City of San Diego, its agents and employees, resulting from the property claims of Metzger Investments, L.P. and Reinhold Metzger, in Superior Court Case No. 831229;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$2,658,236, made payable to Old Republic Title Company;

Authorizing the City Auditor and Comptroller to issue additional checks up to but not exceeding an additional \$841,764 for demolition and other costs as needed to finalize the settlement;

Declaring said funds are to be payable from Fund No. 81140, Public Liability Reserve Fund.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims and litigation, arising from the damage to the Metzger property located at 5024-5050 Wightman Street.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This settlement has been heard in closed session.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Metzger Investments, L.P., Reinhold Metzger and Old Republic Title Company.

Bych/Goldstone

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

Aud. Cert. 2700049.

Staff: Mike Gomez - (619) 236-7096
Andrew Jones - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* ITEM-119: Settlement of Property Damage of Anthony Purbaugh, et al.

(District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-105) ADOPTED AS RESOLUTION R-301847

A Resolution approved by the City Council in Closed Session on Tuesday, July 25, 2006, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Council President Pro Tem Young-yea; Frye-yea; Madaffer-yea; Hueso-yea; Maienschein-not present.

Authorizing the Mayor, or his designee, to pay the sum of \$209,453.18 in the settlement of each and every claim against the City of San Diego, its agents and employees, resulting from the property damage claims of Anthony Purbaugh, et al;

Authorizing the City Auditor and Comptroller, to issue one check in the amount of \$158,772.93 to Luth & Turley, Inc;

Authorizing the City Auditor and Comptroller, to issue additional checks up to but not exceeding an additional \$2,500 for payment to various claimants;

Declaring that said funds are to be payable from Fund No. 41500, Water Fund.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims arising out of a water main break which occurred on October 18, 2005 in the alley behind 4424 Hill Street.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Water fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

N/A

Bych/Goldstone

Aud. Cert. 2700052.

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

Staff: James Coldren - (619) 236-5598
Andrew Jones - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

* [ITEM-120](#): Appointments to the Centre City Development Corporation (CCDC)
Board of Directors.

(See memorandum from Mayor Sanders dated 7/11/2006, with resumes attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-36) ADOPTED AS RESOLUTION R-301848

Confirming the following appointments by the Mayor of the City of San Diego, to
serve as members of the Board of Directors of the Centre City Development
Corporation, for a term ending as indicated:

| <u>NAME</u> | <u>CATEGORY</u> | <u>TERM ENDING</u> |
|-----------------------------------------------------------------------------------------------|------------------------|---------------------------|
| Edwin Teddy Cruz (Mission Hills, Dist. 2) (Replacing Harold G. Sadler, who resigned) | Architecture | May 1, 2007 |
| Janice P. Brown (Kensington, Dist. 3) (Replacing Gil Johnson, whose term expired) | Business-Finance | May 1, 2009 |

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

- * ITEM-121: 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-2006-1032) ADOPTED AS RESOLUTION R-301849

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: 12:03 p.m. – 12:06 p.m.)

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

- * ITEM-122: 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-2006-931) ADOPTED AS RESOLUTION R-301850

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 in the City of San Diego

COUNCIL ACTION: (Time duration: 12:03 p.m. – 12:06 p.m.)

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

ITEM-330: Preliminary Items for Multifamily Revenue Bonds for Broadway Square Apartments.

(See San Diego Housing Commission Report No. HAR-06-015. Centre City Community Area. District 2.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-97) ADOPTED AS RESOLUTION R-301851

Approving the issuance of Bonds by the Housing Authority of the City of San Diego for the Broadway Square Apartments, pursuant to Section 147(f) of the Internal Revenue Code of 1986;

Declaring the City does not warrant the creditworthiness of the Bonds or guarantee, in any way, the payment of the Bonds. No moneys of the City will be pledged or applied to the repayment of the Bonds.

SUPPORTING INFORMATION:

Centurion and HDP have been selected by CCDC to develop 393 affordable housing units on the southeast corner of 9th Avenue and Broadway in downtown San Diego. Centurion is a for-profit affordable housing developer that specializes in high-rise commercial and residential projects. HDP is a nonprofit public benefit corporation established by the Housing Commission to develop affordable housing and to provide facilities and services related to housing. HDP is operated as an independent nonprofit by a Board of Directors.

Broadway Square will provide a total of 393 affordable rental units: 267 studios/living units, 96 one-bedroom units, and 30 two-bedroom units. Forty units will be restricted at 50% Area Median Income (AMI)(\$24,150 for a household of one) and 353 units will be restricted at 60% AMI (\$29,000 for a household of one). The project will also include 2,000 square feet of commercial/retail space, a community room/classroom, and two levels of underground parking.

The project has a total development cost of approximately \$73.4 million. Permanent sources of finance include a Centre City Development Corporation loan (\$14.2 million), federal tax credits (\$30.7 million), and housing revenue bonds (\$28.5 million). It is anticipated that the Housing Authority will initially issue approximately \$35 million in bonds for the project. Of the total \$35 million estimated bond issuance amount, approximately \$6.5 million in housing revenue bonds will be used to finance the construction of the project and will be paid off at conversion to permanent financing. Staff is requesting \$40 million in bond issuing authority as a contingency to address unforeseen cost increases.

Should the Housing Authority at a later date authorize the issuance of bonds for the project, the bonds would not constitute a financial liability to the Housing Authority or the City of San Diego. Neither the faith and credit nor the taxing power of the City or the Authority would be pledged to the payment of the bonds.

FISCAL CONSIDERATIONS:

Approval of these preliminary actions does not commit the Housing Authority to issue bonds. If bonds are ultimately issued, security for repayment of the bonds will be limited to the value of the property and its revenues. The issuance of bonds is contingent upon Agency approval of a CCDC loan and disposition and development agreement, among other contingencies.

PREVIOUS COUNCIL and/or COMMITTEE ACTIONS:

On March 25, 2003, the Agency approved an OPA with original developer to construct the project. On September 23, 2003, the Housing Authority authorized the issuance of \$29.5 million in housing revenue bonds to finance the project. On November 15, 2005, the Agency approved a CCDC option to purchase the land and design documents for the project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In December 2005, CCDC issued a RFQ/P to find a developer for the site and on June 28, 2006, CCDC's board of directors selected Centurion and HDP to develop the Broadway Square project. The Housing Commission recommended approval of these items on August 4, 2006.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Low and very-low income households are the intended residents of the project. Centurion and HDP compose the development team for the project. The owners of Centurion and the HDP board members are listed in Attachments 2 and 4 of the report. Capmark Securities and PNC Financial have been selected to provide debt and equity for the project. CCDC currently owns the property and intends to lease it to the developers. Stradling Yocca Carlson & Rauth and CSG Advisors have been selected as bond counsel and financial advisor to represent the Housing Authority.

Fisher/Vaughan

NOTE: See the Housing Authority Agenda of August 8, 2006, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:37 p.m. – 12:48 p.m.)

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



* ITEM-S500: FY 2007 Agreements with Self-Managed Maintenance Assessment Districts.

(Centre City, City Heights, College Heights, Ocean Beach, North Park, and Southeastern Community Areas. Districts 2, 3, 7, and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-122) ADOPTED AS RESOLUTION R-301852

Authorizing the Mayor to execute a Maintenance Agreement (Maintenance Agreement) with the Adams Avenue Business Association for administration of Contracts for Goods and Contracts for Services for the Adams Avenue Maintenance Assessment District for a one year period beginning July 1, 2006 through June 30, 2007, in accordance with the San Diego Municipal Code Section 65.0212. A copy of the Maintenance Agreement for the Adams Avenue Maintenance Assessment District is on file in the Office of the City Clerk;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$7,530 from Fund No. 70247, for administrative costs incurred by the Adams Avenue Business Association in the course of providing services under the Maintenance Agreement for the Adams Avenue Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$3,500 from Fund No. 70247 to Fund No. 70267, for administrative costs incurred by the City of San Diego (City) in the course of providing administrative services to the Adams Avenue Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the Mayor to execute a Maintenance Agreement with the Central Commercial District Revitalization Corporation for administration of Contracts for Goods and Contracts for Services for the Central Commercial Maintenance Assessment District for a one year period beginning July 1, 2006 through June 30, 2007, in accordance with the San Diego Municipal Code Section 65.0212. A copy of the Maintenance Agreement for the Central Commercial Maintenance Assessment District is on file in the Office of the City Clerk;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$32,780 from Fund No. 70260, for administrative costs incurred by the Central Commercial District Revitalization Corporation in the course of providing services under the Maintenance Agreement for the Central Commercial Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$8,741 from Fund No. 70260 to Fund No. 70267, for administrative costs incurred by the City in the course of providing administrative services to the Central Commercial Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the Mayor to execute a Maintenance Agreement with the City Heights Business Association for administration of Contracts for Goods and Contracts for Services for the City Heights Maintenance Assessment District for a one year period beginning July 1, 2006 through June 30, 2007, in accordance with the San Diego Municipal Code Section 65.0212. A copy of the Maintenance Agreement for the City Heights Maintenance Assessment District is on file in the Office of the City Clerk;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$45,314 from Fund No. 70268, for administrative costs incurred by the City Heights Business Association in the course of providing services under the Maintenance Agreement for the City Heights Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$12,084 from Fund No. 70268 to Fund No. 70267, for administrative costs incurred by the City in the course of providing administrative services to the City Heights Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the Mayor to execute a Maintenance Agreement with the College Area Economic Development Corporation, for administration of Contracts for Goods and Contracts for Services for the College Heights Maintenance Assessment District for a one year period beginning July 1, 2006 through June 30, 2007, in accordance with the San Diego Municipal Code Section 65.0212. A copy of the Maintenance Agreement for the College Heights Maintenance Assessment District is on file in the Office of the City Clerk;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$41,128 from Fund No. 70266, for administrative costs incurred by the College Area Economic Development Corporation in the course of providing services under the Maintenance Agreement for the College Heights Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$10,968 from Fund No. 70266 to Fund No. 70267, for administrative costs incurred by the City in the course of providing administrative services to the College Heights Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the Mayor to execute a Maintenance Agreement with the Little Italy Association for administration of Contracts for Goods and Contracts for Services for the Little Italy Maintenance Assessment District for a one year period beginning July 1, 2006 through June 30, 2007, in accordance with the San Diego Municipal Code Section 65.0212. A copy of the Maintenance Agreement for the Little Italy Maintenance Assessment District is on file in the Office of the City Clerk;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$100,132 from Fund No. 70261 for administrative costs incurred by the Little Italy Association in the course of providing services under the Maintenance Agreement for the Little Italy Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$26,702 from Fund No. 70261 to Fund No. 70267, for administrative costs incurred by the City in the course of providing administrative services to the Little Italy Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the Mayor to execute a Maintenance Agreement with the Ocean Beach Main Street Association for administration of Contracts for Goods and Contracts for Services for the Newport Maintenance Assessment District for a one year period beginning July 1, 2006 through June 30, 2007, in accordance with the San Diego Municipal Code Section 65.0212. A copy of the Maintenance Agreement for the Newport Maintenance Assessment District is on file in the Office of the City Clerk;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$8,098 from Fund No. 70241, for administrative costs incurred by the Ocean Beach Main Street Association in the course of providing services under the Maintenance Agreement for the Newport Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$3,500 from Fund No. 70241 to Fund No. 70267, for administrative costs incurred by the City in the course of providing administrative services to the Newport Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$195,495 from Fund No. 70267, for administrative costs incurred by the City in the administration of the Adams Avenue, Central Commercial, City Heights, College Heights, Little Italy and Newport Avenue Maintenance Assessment Districts for Fiscal Year 2007, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available.

STAFF SUPPORTING INFORMATION:

The San Diego Municipal Code allows non-profit corporations to administer MADs when an assessment weighted majority of district property owners support the selection of a particular non-profit corporation for their district. The San Diego Municipal Code Section 65.0212 paragraph (b)(2), authorizes the City Council to approve a one year Agreement with non-profit corporations to administer the Contracts for Goods and Contracts for Services in Maintenance Assessment Districts ("MADs"). The property owner selected non-profit corporations ("Associations") have satisfactorily managed their annual Agreements since the inception of each MAD and wish to continue their contract with the City from July 1, 2006 through June 30, 2007. This action will authorize the Mayor to execute Agreements between the City and the Associations for a period of one year beginning on July 1, 2006 and ending on June 30, 2007. The Agreements provide the following:

1. The Associations will administer Contracts for Goods and Contracts for Services and prepare financial statements for their respective Districts as provided for in the Maintenance Assessment District Ordinance, Landscape and Lighting Act of 1972, and as set forth in the Assessment Engineer's Report for the Adams Avenue, Central Commercial, City Heights, College Heights, Little Italy, and Newport Maintenance Assessment Districts.
2. The Associations will perform all duties as set forth in each of their respective Agreements under Article I, Section B, referred to as Specific Requirements.

3. The Associations will be compensated for administration in an amount not to exceed 15% of the total approved assessments for FY07. Projected total annual assessments for the following Maintenance Assessment Districts in FY07 are \$7,347,578.

This action will also authorize the transfer of \$195,495 to Fund 70267 to fund City administration (by the Economic Development Division of the City Planning and Community Investment Department) of the Adams Avenue, Central Commercial, City Heights, College Heights, Little Italy, and Newport Avenue self-managed MADS as well as the Downtown Property & Business Improvement District (PBID) for Fiscal Year 2007. Additionally, this action authorizes the expenditure of funds, in an amount not to exceed \$195,495 in Fiscal Year 2007, from Fund 70267 for the administration of the above referenced self-managed MADs and PBID by the Economic Development Division. City administrative fees in self-managed maintenance assessment districts range from a minimum of \$3,500 to a maximum of 4% of total assessments and will be used to fund engineering, auditing, payment processing, budgeting and other services related to the administration of each district.

| <u>District</u> | <u>Assessment Amount</u> | <u>Non-Profit Administration Fee</u> | <u>City Administration Fee</u> |
|------------------------|--------------------------|--------------------------------------|--------------------------------|
| Adams Avenue MAD | \$ 50,200 | \$ 7,530 | \$ 3,500 |
| Central Commercial MAD | \$ 218,536 | \$ 32,780 | \$ 8,741 |
| City Heights MAD | \$ 302,095 | \$ 45,314 | \$ 12,084 |
| College Heights MAD | \$ 274,189 | \$ 41,128 | \$ 10,968 |
| Little Italy MAD | \$ 667,546 | \$100,132 | \$ 26,702 |
| Newport MAD | \$ 53,986 | \$ 8,098 | \$ 3,500 |
| Downtown PBID | \$5,781,026 | N/A | \$130,000 |
| Total | \$7,347,578 | | \$195,495 |

FISCAL CONSIDERATIONS:

Under the terms of the agreement, the City will be reimbursed \$195,495 for administrative services.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This is an annual process, the previous Council action was taken in August of 2005, to approve the MAD agreements with the respective non-profit business associations.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Each district holds regular meetings and publishes regular newsletters which are distributed to the property owners in the respective MADs.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are the business community and the property owners within the self managed districts.

Anderson/Waring

Aud. Cert. 2700070.

Staff: Luis E. Ojeda - (619) 533-4246
Alex W. Sachs - Deputy City Attorney

FILE LOCATION: STRT M-505 (34)

COUNCIL ACTION: (Time duration: 1:13 p.m. – 1:14 p.m.)

MOTION BY HUESO TO ADOPT THE RESOLUTION WITH THE FOLLOWING AMENDMENT AND DIRECTION: PULL THE CONTRACT WITH THE CENTRAL COMMERCIAL DISTRICT REVITALIZATION CORPORATION DUE TO CONTRACT DISPUTES AND ADMINISTRATIVE IRREGULARITIES; DIRECT STAFF TO ADDRESS AND RESOLVE THOSE ISSUES AND COME BACK TO COUNCIL WITH THE CONTRACT ON SEPTEMBER 12, 2006. Second by Madaffer. 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:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 1:15 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 1:15 p.m.)