THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, DECEMBER 5, 2006
AT 10:00 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 10:06 a.m. The meeting was recessed by Council President Peters at 12:00 p.m. for the purpose of the noon break.

The meeting was reconvened by Council President Peters at 2:02 p.m. with all Council Members present. The meeting was recessed by Council President Peters at 4:13 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:18 p.m. with Council Members Maienschein and Madaffer not present. The meeting was recessed by Council President Peters at 5:11 p.m. immediately into Closed Session. Council President Peters reconvened the meeting at 6:12 p.m. with Council Member Mainschein not present. The meeting was recessed by Council President Peters at 8:57 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 9:01 p.m. with all Council Members present. The meeting was recessed by Council President Peters at 9:35 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 9:45 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 9:50 p.m.

ATTENDANCE DURING THE MEETING:

(1) Council Member Peters-present

(2) Council Member Faulconer-present

(3) Council Member Atkins-present

(4) Council Member Young-present

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Hueso-present

Clerk-Maland (dlc/pr)

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-not present
(8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on public transportation.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-2:

Al Strohlein commented on the alcohol task force.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Ted Cook commented on Phil Paulson.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:51 a.m.)

PUBLIC COMMENT-4:

Wendy Christakes commented on Sycuan Reservation and Casino.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-5:

Gabriel Del Rio commented on Community Housing Works in City Heights.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. – 10:57 a.m.)

PUBLIC COMMENT-6:

Phil Hart commented on the appointment of Alan Bersin and the five-year plan.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 11:00 a.m.)

PUBLIC COMMENT-7:

Ardell Matthews commented on the Chollas View Housing Project.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:00 a.m. – 11:03 a.m.)

PUBLIC COMMENT-8:

Bill Newsome III commented on the Kroll Report Recommendations.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-9:

Jarvis Ross commented on December 7th and Pearl Harbor.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:07 a.m. – 11:10 a.m.)

PUBLIC COMMENT-10:

Nik Moffit commented on the actions of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:13 a.m.)

PUBLIC COMMENT-11:

Jeff Jordan commented on the police department.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:13 a.m. – 11:17 a.m.)

PUBLIC COMMENT-12:

Sherm Harmer commended the leadership of City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:17 a.m. – 11:19 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Atkins thanked the police department in reference to public safety forums.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:19 a.m. – 11:21 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Marcia K. Samuels Day.

MAYOR SANDERS', COUNCIL PRESIDENT PRO TEM YOUNG'S, COUNCILMEMBER ATKINS', AND COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-604) ADOPTED AS RESOLUTION R-302157

Recognizing Marcia Samuels and commending her for her contributions to the City of San Diego;

Proclaiming December 5, 2006, to be "Marcia K. Samuels Day" in the City of San Diego

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:06 a.m. - 10:16 a.m.)

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

ITEM-31: Barbara Ventura Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-605) ADOPTED AS RESOLUTION R-302158

Offering appreciation and proclaiming December 5, 2006, to be "Barbara Ventura Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. - 10:31 a.m.)

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

* ITEM-50: Fifth Amendment to the Contract for Financial Advisory Services with Fieldman, Rolapp and Associates.

(Peninsula Community Area. District 2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/21/2006, Item 52. (Council voted 7-0. Councilmember Maienschein not present):

(O-2007-23) ADOPTED AS ORDINANCE O-19556 (New Series)

Authorizing the Mayor to enter into a Fifth Amendment to the Contract for Financial Advisory Services with Fieldman, Rolapp and Associates with respect to financial advisory services rendered in connection with the issuance of bonds for Communities Facilities District No. 3 (Liberty Station); provided however that the financial advisor shall be paid only from proceeds of the bonds and in an amount not to exceed $10,000.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-51: **NOTE:** This item has been pulled from the docket.

* ITEM-52: Correction to Land Development Code Section 123.0202(e).

(Citywide.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/21/2006, Item 51. (Council voted 8-0):

(O-2007-45) ADOPTED AS ORDINANCE O-19557 (New Series)

Amending Chapter 12, Article 3, Division 2, of the San Diego Municipal Code by amending Land Development Code Section 123.0202(e) to read "Six" Members instead of "Eight" Members thereby changing the language to be consistent with previous changes approved by the City Council on August 1, 2006 in Ordinance O-19562, which reduced the Membership, Quorum, and Voting Requirements of the Historical Resources Board.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-53: California Energy Commission Energy Efficiency Financing for Facility Improvements.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2007-51) INTRODUCED, TO BE ADOPTED ON TUESDAY, JANUARY 9, 2007

Introduction of an Ordinance authorizing the Mayor, or his duly designated representative, to execute, for and on behalf of the City, a Fifteen-Year Loan Agreement with California Energy Commission in the amount of $2,226,689 at the rate of 4.5% interest, to upgrade mechanical and electrical systems at City

facilities, and to comply with all terms and conditions, as set forth in Energy Conservation Assistance Account Loan Agreement No. 007-06-ECC;

Authorizing the expenditure of an amount not to exceed $300,000 from Capital Outlay Fund No. 30245, solely and exclusively, to provide reimbursable funds as an advance for the above upgrades at City facilities;

Authorizing the City Auditor and Comptroller to deposit loan proceeds received from the California Energy Commission into Fund No. 30244 and to expend funds as directed by the administering department.

STAFF SUPPORTING INFORMATION:

The California Energy Commission approved The City of San Diego's application for an energy efficiency improvement loan of $2,226,689 with a simple payback of 8.5 years on September 27, 2005.

The proposed projects are anticipated to reduce energy consumption by 1,829,900 kilowatt hours and 1,045 therms annually. This translates to an annual reduced energy cost of about $262,200.

Typical energy efficiency projects include lighting and air conditioning system upgrades; variable speed drives for motors; installation of Turbocor compressors combined with energy control software on heating/air conditioning systems; pool pumps; energy management systems; and installation of photovoltaic systems.

FISCAL CONSIDERATIONS:
The $2,226,885 loan is repaid with interest over a 15 year period. The loan payments are funded with savings realized by the energy efficiency improvements. These improvements will address deferred maintenance items.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Resolution R-301693, with a date of final passage of August 4, 2006, authorized the application for a 15-year loan agreement with the California Energy Commission to implement energy efficiency improvements at City facilities.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
All energy efficiency improvements are performed in public facilities such as police stations, libraries, recreation center, and so forth. The taxpayers are positively impacted through lower energy costs and deferred maintenance addressed in public facilities.

Blair/Heap/Haas

Aud. Cert. 2700363.

Staff: Tom Blair - (858) 492-6005
Frederick M. Ortlieb - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-54: Second Amendment to the Agreement with CH2mHill, Inc. for Consultant Services.

(Navajo Community Area. District 7.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2007-59) INTRODUCED, TO BE ADOPTED ON TUESDAY, JANUARY 9, 2007

Introduction of an Ordinance authorizing the execution of a Second Amendment to the Consultant Agreement with CH2mHill, Inc. for the Alvarado Water Treatment Plant Expansion (Agreement), together with any reasonably necessary modifications or amendments thereto which do not increase agreement scope or cost and which the Mayor, or duly authorized City representative, shall deem necessary from time to time in order to carry out the purposes and intent of the agreement;

Authorizing the City Auditor and Comptroller to transfer $467,789.16 in excess budgeted funds from CIP-73-261.4, Earl Thomas Reservoir, to CIP-73-261.3, Alvarado Water Treatment Plant Upgrade and Expansion Phase II;

Authorizing the expenditure of $467,789.16 from CIP-73-261.3, Alvarado Water Treatment Plant Upgrade and Expansion Phase II, for the purpose of funding the agreement;

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

Declaring that this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines 15378(c). This activity is a subsequent discretionary approval covered under LDR-40-0259, Addendum to EIR-88-0459, Alvarado Water Filtration Plant Expansion and Rehabilitation. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 7/26/2006, NR&C voted 4-0 to approve. (Councilmember Faulconer, Atkins, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

The City entered into Agreement RR-295950 with CH2mHill, Inc. on January 14, 2002, in the amount of $8,081,599, to provide construction management services for Alvarado Water Treatment Plant Expansion which included a portion of the Alvarado Water Treatment Plant Upgrade Phase I as well as the Earl Thomas Reservoir CIP-73-261.4 and Alvarado Water Treatment Plant Upgrade Phase II CIP-73-261.3 projects. CH2mHill's compensation schedule split the total fee between the three projects with $2,660,533 allocated to Earl Thomas Reservoir and $5,421,066 allocated to Alvarado Water Treatment Plant Upgrade and Expansion Phase I & II.

CH2mHill, Inc was anticipated to exceed their budget due to the following:
• Bankruptcy of Nielsen Dillingham Builders during construction of the Alvarado Water Treatment Plant Upgrade and Expansion Phase I. CH2mHill, Inc. spent $2,606,744.39 assisting the City with settlement negotiations with Nielsen Dillingham's surety, and construction management work with City Facilities Maintenance staff and other contractors who worked on completing Nielsen Dillingham's unfinished work.
• City Council directive as determined on a project-by-project basis to pay prevailing wages for Water and Sewer Fund construction contracts with an engineer's estimate exceeding $10 million. Several years into the Agreement, the City Council pursuant to Resolution No. R-298185 determined that the construction contract for Alvarado Water Plant Upgrade Phase II should require the payment of prevailing wages. City staff determined that CH2mHill, Inc. should also pay their special inspectors prevailing wage on Phase II which created problems with overtime that were never contemplated when CH2mHill, Inc. negotiated their Agreement with the City.
• Special Building Code inspections. Due to the nature and complexity of the Treatment Plant construction project, portions of the work required special inspection that was not originally contemplated, and resulted in CH2mHill, Inc. using as-needed special inspectors to cover simultaneous special inspections occurring at multiple locations on site.

In order to stay within the overall $8,081,599 authorized funding level, City staff worked with CH2mHill, Inc., on mitigating some of these costs. City staff reduced the scope of work that CH2mHill, Inc. is performing by eliminating non-essential services such as report writing and by replacing a non-special inspection employee with City staff.

In addition, to the proposed changes to the phase funding schedule, the term of CH2mHill, Inc., existing Agreement will expire prior to the project being completed and capitalized. The duration of the Agreement needs to be extended to ensure CH2mHill, Inc. is available to inspect the startup of the facility equipment, computer programs, and overall plant operations, and that the Contractor has completed all their work in accordance with the contract documents. Other related modifications to the Exhibits and updates to the contract language are also being proposed.

FISCAL CONSIDERATIONS:
This amendment to CH2mHill's agreement will extend the Agreement for three years and revise the phased funding for completion of Phase II construction management services. No additional funds are being requested. The total authorization of $8,081,599 under CH2mHill's original agreement will not change, however this action will transfer the $467,789.16 in excess funds they allocated for managing the construction of the recently completed Earl Thomas Reservoir to the Alvarado Water Treatment Plant Phase II project. Cost estimates for the Earl Thomas Reservoir, and Phase II are attached for reference.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
This item was approved at the July 26, 2006, Natural Resources & Culture Committee meeting. CH2mHill has had one previous Agreement R-290767 executed on September 29, 1998, for a total fee of $4,500,000 with the City for the Upgrade and Expansion of the Alvarado Water Treatment Plant Phase I, prior to their current $8,081,599 Agreement for the remaining portion of Phase I, Earl Thomas Reservoir and Phase II. The current Agreement was amended by Manager's action on October 5, 2004, Document C-12875, to reflect changes to the City's Owner Controlled Insurance Program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Community meetings have been conducted to inform members of the public, including the Friends of Lake Murray, Mission Trails Community Advisory Committee, and local residents about the scope and schedule of the Alvarado Water Treatment Plant Upgrade and Expansion project. A CIP hotline is regularly maintained to answer questions and provide information to the public. Door hangers, fact sheets, newsletters, and updates on the City of San Diego Web site also add to the public outreach efforts.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
The key stakeholders are City of San Diego Water Department customers, CH2mHill and their sub consultants (Christian Wheeler, EMA, Haley & Aldrich, Integrated Engineering Management Corp., KATZ & Associates, Kleinfelder, Lawhart Engineers Inc., Winstead and Company), Archer Western Contractors, Development Services Department, and California Department of Health Services. Failure to extend the term of the Agreement for overseeing this work could result in the City not closing out the project per Building Code, being unable to ensure the facility is operating as intended, or being unable to, identify if any operational problems are related to the design or construction.

Barrett/Haas

Aud. Cert. 2700353.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-100: Inviting Bids for the Construction of the Miramar Road Trunk Sewer Project.

(University Community Area. Districts 1 and 7.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2006-861) ADOPTED AS RESOLUTION R-302159

Approving the plans and specifications for the construction of the Miramar Road Trunk Sewer (Project);

Authorizing the Mayor, after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed $3,954,777, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed $3,790,002 from Sewer Fund 41506, CIP-46-195.8, Miramar Road Trunk Sewer and an expenditure of an amount not to exceed $164,775 from Sewer Fund 41506, CIP-46-193.0, Annual Allocation - Muni Pooled Contingency, for the purpose of providing funds for project contingency, contingent upon the approval of the Fiscal Year 2007 Capital Improvement Program and Appropriation Ordinance, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/13/2006, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Atkins, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

The Miramar Trunk Sewer was constructed in the late 1950's and consists of approximately 14,800 feet of vitrified clay pipe (VC) located within Rose Canyon. The sewer is located within a 20-foot wide easement which traverses the Marine Corps Air Station (MCAS) Miramar. The 15-inch diameter section of the trunk sewer east of Interstate 805 collects and conveys flows from the commercial/industrial area north of Miramar Road east to Interstate 15 as well as the MCAS Miramar. Peak flows at this location are approaching the capacity of the pipe and based on the hydraulic analysis, the sewer does not have adequate capacity to handle current peak flows. For the past few years it has been necessary to have a portable pump and discharge hose in place for bypass pumping. During significant rain events staff manually operates the bypass pump to prevent a sewer overflow from occurring at this constriction point. The proposed project will upgrade the existing 15-inch diameter sewer line, east and west of Interstate 805, to a 21-inch diameter line. There will be a risk of sewer spills if this project is not completed.

FISCAL CONSIDERATIONS:
This request is for $3,954,777 and funding will be available in Sewer Fund 41506, CIP-46-195.8, Miramar Road Trunk Sewer Replacement Project, contingent upon the approval of the Fiscal Year 2007 Capital Improvement Program and Appropriation Ordinance.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
This project will be presented to the Natural Resources & Culture Committee (NR&C) on September 13, 2006. On April 6, 2006, the Planning Commission considered the testimony and voted 6-1 to approve the sewer replacement/upgrade with the condition that only the pipe bursting method of installation be used. On July 24, 2006, MWWD appealed the Planning Commission decision. The City Council granted the appeal of the MWWD under Resolution No. R-301671 and approved the Site Development Permit No. 87992 allowing either pipe bursting or open trench installation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
This project was presented to the University Community Planning Group on March 14, 2006, and two other previous occasions. The Community Planning Group approved the trunk sewer replacement.

Debby Knight of the Friends of Rose Canyon forwarded a letter, dated February 11, 2006, recommending a full Environmental Impact Report (EIR) to address project issues. The City of San Diego, Development Services Department is the Lead Agency and has determined that the prepared Mitigated Negative Declaration (MND) is in compliance with the California Environmental Quality Act and State CEQA Guidelines.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
The residents of University City and Friends of Rose Canyon are stakeholders. Impacts from the project will be avoided or mitigated as indicated in the approved environmental document, Mitigated Negative Declaration (LDR File No. 33120, SCH No. 200611056).

Tulloch/Haas

FILE LOCATION: W.O. 177041/CONT-ARRIETA CONSTRUCTION INC.

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-101: Change of Dates for the Rope Barrier Placement at Children's Pool (Change from January 1, 2007 to December 15, 2006, and May 1, 2007 to May 15, 2007.)

(See memorandum from the City Attorney dated 11/13/2006. District 1.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-621 Cor. Copy) ADOPTED WITH DIRECTION AS RESOLUTION R-302160

Authorizing the Mayor, or his designee, to immediately place a rope barrier at the Children's Pool during pupping season from January 1st through May 1st and also from December 15th through December 31st and May 1st through May 15th each year.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 11/15/2006, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Atkins, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

Pursuant to the NOAA recommendation and the recommendation made to the City Council by the Natural Resources and Culture Committee, the San Diego City Council passed Resolution Number R-301368 on April 19, 2006, which provided for the placement of the rope barrier to protect the seals during their pupping season from January 1st through May 1st every year from that point forward. On November 15, 2006, the Natural Resources and Culture Committee voted to make a recommendation to City Council for early placement of the rope barrier to December 15, 2006, to protect the mother seals and the unborn pups in the late stage of pregnancy when the mother seals need to haul-out on the beach to shelter themselves and rest before the birth of the pups. The Natural Resources and Culture Committee also voted to recommend to City Council that the placement of the rope barrier remain up for two weeks after the May 1st deadline to May 15th, to protect the baby seals right after birth, when they may need to remain on the beach to rest and nurse before embarking into the ocean on their own for the first time. Thus, it would also make sense in terms of the NOAA recommendation to the City to expand the dates of the rope barrier.

Frye

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:21 a.m. – 11:59 a.m.)

MOTION BY FAULCONER TO ADOPT THE RESOLUTION WITH DIRECTION THAT ALL PERMITS BE PURSUED IMMEDIATELY AND THE BARRIER BE PLACED AS SOON AS POSSIBLE BEGINNING DECEMBER 15, 2006, TO MAY 15, 2007. Second by Frye. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-102: First Amendment to the Master Power Purchase and Sale Agreement with SDG&E.

(See Executive Summary Sheet dated 7/18/2006. Point Loma Community Area. District 2.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-443) ADOPTED AS RESOLUTION R-302161

Authorizing the Mayor, or his designee, for and on behalf of the City, to enter into an amendment to the Master Power Purchase and Sale Agreement with San Diego Gas & Electric Company for the period January 1, 2008 through December 31, 2012, with option to renew through December 31, 2017, and under the terms and conditions set forth in the First Amendment;

Authorizing the City Auditor and Comptroller to deposit funds received from SDG&E under the First Amendment into Sewer Revenue Fund No. 41508;

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 11/15/2006, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Atkins, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

The Point Loma Wastewater Treatment Plant (PLWTP) generates renewable electricity for its own use with excess being sold to SDG&E under a renewable energy contract. This electricity is produced by two 2285 kW digester gas fueled engine generators, one 1350kW hydroelectric turbine on the plant's ocean outfall, and an inventive 1.2 MW digester gas/diesel dual-fuel back-up generator, that is used as a peaking unit. The PLWTP's avoided SDG&E electricity cost is 10.4 cents/kWh.

The existing renewable energy contract, which began in 2002, was bid in 2001, when PLWTP was receiving only 2.8 cents per kWh for its electricity and MWWD was responsible for all schedule coordination. The current contract price for the sale of approximately 22 million

kWh/year is 4.432 cents per kWh and SDG&E is responsible for schedule coordination. The current contract term is five years, ending on December 31, 2007.

In October of 2005, SDG&E issued a Request for Offers for renewable energy contracts and contract extensions. In November of 2005, MWWD bid to extend the PLWTP's contract for five years with five 1 year option years, at the City's sole discretion. In May of 2006, the Public Utilities Commission published its benchmark maximum acceptable value for renewable energy, which is known as the Renewable Energy Market Price Referent. For 10 year contracts beginning in CY 2008, this benchmark was set at 7.8 cents per kWh.

After intense negotiations with SDG&E, this proposed contract amendment will provide MWWD with a renewable energy price increase to 7.56 cents per kWh. This price excludes the scheduling coordination, valued at about 0.4 cents per kWh, which will be performed by SDG&E. The amendment will extend the existing agreement and the new price will take effect in January 2008. This is a 68% increase in revenues per kWh sold, and was possible as a result of bidding while non renewable fuel prices are at an all time high.

This contract amendment will increase the revenues received by the Sewer Revenue Fund #41508 for these energy sales from $1,060,000/year to $1,660,000/year. Total contract amendment revenue is projected to be $8,316,000 for the first 5 additional years and $16,632,000 if all 10 additional years are utilized.

FISCAL CONSIDERATIONS:
Total potential increase in revenues over a current contract year is approximately $600,000. Total revenues depend on kWh generated and the number of years the City chooses to operate under this amendment. These revenues will be deposited in the Sewer Revenue Fund #41508, Revenue Accounts 77537 and 77538.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Resolution No. R-297453, adopted on December 9, 2002, authorized the City Manager to execute the original Master Power Purchase and Sale Agreement with SDG&E for the renewable energy being sold by the Point Loma Wastewater Treatment Plant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
This amendment was reviewed by the Metro Participating Agencies at the Metro TAC meeting of June 2, 2006, and the Metro Commission on July 5, 2006.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
SDG&E and their customers.

Ferrier/Haas

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-103: Bureau of Reclamation (BOR) Water Conservation Field Services Program and the Mapping Interface Enhancements to Satellite Imagery.

(See Water Department's November 6, 2006, Executive Summary Sheet regarding Grants for Mapping Interface Enhancement to Urban Vegetation Satellite Imagery Citywide. Citywide.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-379) ADOPTED AS RESOLUTION R-302162

Authorizing the Mayor, or his designee, to apply to and execute an agreement with BOR for the Grant for the Project, together with any reasonably necessary modifications or amendments thereto which do not increase agreement scope or cost and which the Mayor, or his designee, shall deem necessary from time to time in order to carry out the purposes and intent of the agreement;

Authorizing the Mayor, or his designee, to take all necessary actions to secure the Grant;

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

Declaring this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2) because it will not

result in a direct or reasonably foreseeable indirect physical change in the environment.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 11/15/2006, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Atkins, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

In December 2005, under the Water Conservation Field Services Program Southern California Area Office (SCAO), the Bureau of Reclamation solicited proposals to invite agricultural and Municipal and Industrial water user entities, state, local government, water providers, universities, nonprofits and other entities to leverage their money and resources, by cost sharing with Reclamation, in projects/activities that make more efficient use of exiting water supplies through water conservation and efficiency in the SCAO area. In February 2006, the City's Water Department submitted an application for the Mapping Interface Enhancements to Urban Vegetation Satellite Imagery project. This project will make programming improvements to the ArcGIS mapping function, which will bring further enhancements in the adaptation and usefulness of the 2004 satellite-generated ArcMAP. It is estimated that these enhancements will result in an additional 15% increase in the efficiency that landscape audits are performed, along with additional enhancement to system management functions. With these added efficiencies staff will be more productive and able to increase the volume of water audits performed to begin tapping into saving some of the 40,000 acre feet of water that is wasted on San Diego landscapes every year.

In May 2006, the City was notified that the proposed project was selected by BOR for full grant funding of $14,151.

FISCAL CONSIDERATIONS:
Total project cost is estimated to be $28,302. The grant requires a 50% match which the City will provide in the form of in-kind staff charges of $8,302 and cash of $5,849 budgeted within the Water Department Customer Support Division's FY 07 operating budget.

PREVIOUS COUNCIL COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Water surveys are available to City of San Diego water customers free of charge. These surveys are advertised via the City's website and periodically within the customer's water bill.

KEY STAKEHOLDERS:
Citywide Water Customers.

Barrett/Haas

Aud. Cert. 2700238.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-104: San Diego Flood Mitigation Plan – Consultant Agreement.

(Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-570) ADOPTED AS RESOLUTION R-302219

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, an agreement with URS Corporation, for the purpose of providing engineering services to prepare the City of San Diego's Flood Mitigation Plan under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor, or his designee, shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the City Auditor and Comptroller, to expend an amount not to exceed $50,800 from CIP-13-200.0, of which $50,000 will be from Fund 19677 and $800

will be from Fund 104402, for the purpose of funding the above agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure are, or will be, on deposit with the City Treasurer; and

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 exempt from CEQA pursuant to CEQA Guidelines Section 15060(c)(2) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment.

STAFF SUPPORTING INFORMATION:

The City of San Diego received a grant from Governor's Office of Emergency Services (OES) for $50,000 under the FY 03 Flood Mitigation Assistance Grant Program. The project's objective is to prepare the City of San Diego's Flood Mitigation Plan.

All work performed needs to be completed by an established deadline of August 31, 2007, in order to qualify for reimbursement. Since this project requires specialized labor and internal City Staff do not have the required expertise to complete this project within the given timeframe, it was recommended to hire a consulting firm with expertise in flood mitigation planning. Hiring a consultant through the interview process will not allow for sufficient time for the City to complete the project by the August 2007 deadline. Therefore, it was recommended to sole source a contract with URS Corporation to provide required consulting services.

URS Corporation is the recommended consultant due to their existing contract and assistance with implementing the San Diego County, California Multi-Jurisdictional Hazard Mitigation Plan. The City of San Diego is a participant in the regional project and feels that URS Corporation's expertise and experience with flood mitigation planning is necessary to provide the professional services required by this project.

The cumulative amount awarded to URS Corporation this Fiscal Year (FY 07) exceeds $250,000.

FISCAL CONSIDERATIONS:
Funds for this action are available in Fund l04402 and Fund 19677.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Resolution No. R-301244 (03/01/2006) approved the grant application to OES, provided authority to secure funding from OES, provided authority to accept and expend all monies if grants were awarded, authorized City Auditor and Comptroller to add CIP-13-200.0 to the FY 2006 Capital Improvements Program, authorized the transfer of match funds from General Services Street Division, authorized the City Auditor and Comptroller to increase by $66,667 the FY 2006 Capital Improvements Program Budget in CIP-13-200.0, and to expend $66,667 from CIP-13-200.0 for the purpose of developing a mitigation plan for the San Diego River, authorized the City Auditor and Comptroller to transfer excess funds to appropriate reserves, and exempted this project from CEQA pursuant to CEQA Guidelines Section 15060(c)(2).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Public involvement in the planning process is a requirement of the grant funding. URS will coordinate and assist the City with the planning requirements for the public participation for the duration of the grant.

KEY STAKEHOLDERS:
URS Corporation, the selected consulting firm for this project.

Boekamp/Haas

Aud. Cert. 2700347.

Staff: Dave Zoumaras - (619) 533-3138
Jeremy A. Jung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:17 p.m. – 9:18 p.m.)

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

ITEM-105: Think Blue Public Service Announcements, Fiscal Year 2007.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-597) CONTINUED TO TUESDAY, JANUARY 9, 2007

Authorizing the Mayor, or designee, to execute a contract with Four Square Productions, to produce one (1) Public Service Announcement (PSA), and to edit closing images of previously produced PSAs for the Think Blue education and outreach campaign in the amount not to exceed $56,000;

Authorizing the Mayor, or designee, to execute a contract with American Dream Cinema, to produce two (2) Public Service Announcements (PSAs), and to edit closing images of previously produced PSAs for the Think Blue education and outreach campaign in the amount not to exceed $107,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $56,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Program, General Fund 100 to provide funds for the contract with FourSquare Productions to produce one (1) Public Service Announcement (PSA), and to edit closing images of previously produced PSAs for the Think Blue education and outreach campaign;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $107,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Program, General Fund 100 to provide funds for the contract with American Dream Cinema to produce two (2) Public Service Announcement (PSAs), and to edit closing images of previously produced PSAs for the Think Blue education and outreach campaign;

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

STAFF SUPPORTING INFORMATION:

The City of San Diego is one of 18 municipal jurisdictions, along with the County of San Diego, Port of San Diego and the Airport Authority, which are jointly regulated by the Municipal Storm Water Permit from the San Diego Regional Water Quality Control Board.

The Municipal Permit (Order No. 2001-01) requires each co-permitee to undertake specific storm water pollution prevention, abatement, enforcement and education activities. In the City of San Diego, all education, outreach and public advocacy programs designed to achieve compliance with the Municipal Storm Water Permit are implemented by the "Think Blue" Campaign in the Storm Water Pollution Prevention Division of the Metropolitan Wastewater Department. Furthermore, the new Municipal Permit which will be issued under Fiscal Year 2007 requires continued outreach and education efforts towards residents, businesses and other members of the general public, with an emphasis on watershed awareness.

In May 2006, the City issued and officially advertised a Request for Proposal (RFP) soliciting submittals from production companies to produce Public Service Announcements (PSAs) for the Think Blue campaign. Two production companies submitted proposals, and both were found to be responsive to the RFP. Interviews were held September 7, 2006, and both companies were asked to present an original concept written by the City, along with the opportunity to present their own concepts. FourSquare Productions was selected by the interview panel to produce one PSA, and American Dream Cinema was selected to produce two PSAs, one of which is designed to include the City of San Diego's original concept, "Ironic Beauty". In addition, both companies were also asked to submit proposals for the costs associated to edit PSAs that were previously produced by each company for the Think Blue Campaign.

The amount awarded to FourSquare Productions shall not exceed $56,000 for production of one (1) Public Service Announcement and for editing the closing images of previously produced PSAs, upon receipt of a fully executed contract. The amount awarded to American Dream Cinema shall not exceed $107,000 for production of two (2) Public Service Announcements, and for editing the closing images of previously produced PSAs, upon receipt of a fully executed contract. Timeline for delivery of the PSAs is scheduled for the first quarter of calendar year 2007.

FISCAL CONSIDERATIONS:
The City will expend funds in the amount of $163,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Program General Fund (# 100) for the purpose of Think Blue Storm Water Pollution Prevention and Outreach to meet compliance for the current and updated permit.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Think Blue ™ is a wholly owned entity of the City of San Diego, holding trademark status with the United States Government Office of Trademarks and Patents, and therefore is not required to

solicit public input or participation. In the past, Think Blue PSAs have been well received in the community and endorsed by the Unified Port of San Diego, the County of San Diego, San Diego Coastkeeper and the municipal co-permitees. Production of PSAs furthers the education and outreach efforts of the Think Blue Storm Water Pollution Prevention Program and the Think Blue Campaign, which endeavors to change the polluting behaviors of residents, business and industry across the region in accordance with the requirements of The Municipal Permit (Order No. 2001-01).

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Key stakeholders include San Diego residents, businesses, and industry in all Council Districts across the region. Included in these stakeholders are non-profit agencies such as Coastkeeper, Surfrider Foundation, I Love a Clean San Diego, Port of San Diego, County of San Diego, the Regional Airport Authority and the remaining Municipal Co-permitees.

Ferrier/Haas

Aud. Certs. 2700359 and 2700360.

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 9:24 p.m. – 9:27 p.m.)

MOTION BY ATKINS TO CONTINUE THIS ITEM TO TUESDAY, JANUARY 9, 2007 FOR FURTHER REVIEW. 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-106: Fiscal Year 2007 Think Blue Outreach Services Agreement with Katz & Associates and Collaborative Services.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-625) CONTINUED TO TUESDAY, JANUARY 9, 2007

Authorizing the Mayor, or designee, to execute, for and on behalf of the City, an Agreement with two, one year options to renew, with Katz & Associates and Collaborative Services for outreach consulting services for the Think Blue education and outreach campaign;

Authorizing the Mayor, or designee, to enter into a contract with Katz & Associates with two, one year options to renew in an amount not to exceed $152,000;

Authorizing the Mayor, or designee, to enter into a contract with Collaborative Services with two, one year options to renew in an amount not to exceed $68,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $220,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Program, General Fund 100 to provide funds for the contracts with Katz & Associates and Collaborative Services to conduct educational outreach services citywide for the Think Blue Education and Outreach Campaign;

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

STAFF SUPPORTING INFORMATION:

The City of San Diego Storm Water Pollution Prevention Division is responsible for reducing the effects of storm water pollution and urban runoff into the City's receiving waters. In addition to water quality monitoring, enforcement activities, regional watershed coordination and oversight of the City's municipal activities, the Division is also responsible for public education and outreach and changing the pollution-related behaviors of residents, businesses and industries.

In an effort to meet the requirements of the Regional Water Quality Control Board's soon to be issued, Total Maximum Daily Loads regulations in Chollas Creek and Areas of Biological Significance in La Jolla, the Storm Water Pollution Prevention Division is initiating an extensive education and outreach campaign. The campaign will employ Community Based Social Marketing practices, an emerging public education field using social psychology research

methods and behavior modification strategies to change behavior. The goals of the "Think Blue" campaign include: increased awareness that storm water flows into water bodies untreated, increased public support for the City's efforts to clean San Diego's beaches and bays, changed behaviors from those that pollute water bodies to non-water polluting behaviors and, measurement of sustained, positive behavior changes.

In May 2006, the City advertised for education and outreach consultants via an RFQ process. The City's Consultant Services Coordinator released a Statement of Qualifications for Consulting Services and provided the names of three firms who responded. Each of the firms was interviewed in accordance with Council Policy 300-7. Katz & Associates and Collaborative Services were selected as the most qualified. The Agreement will allow the Division to receive education and outreach consulting services on an as-needed basis for an amount not to exceed $220,000. The consulting services will begin in FY 2007 with two, one-year options to renew, and will include, but is not limited to, analyzing data provided by polling consultants to develop messages and outreach strategies to conduct outreach to residents, businesses and community groups throughout the City of San Diego with first year activities focusing on the Chollas Creek and La Jolla Shores areas.

FISCAL CONSIDERATIONS:

The City will expend funds in the amount not to exceed $220,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Division Operating Fund (#100) for the purposes of performing education and outreach professional activities.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Consultant services will help augment and implement the City's education and outreach efforts of the Think Blue Storm Water Pollution Prevention Program and the Think Blue Campaign, which endeavors to change the polluting behaviors of residents, business and industry across the region to comply with the soon to be issued Total Maximum Daily Load regulations from the Regional Water Quality Control Board.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Key stakeholders include San Diego residents, businesses, and industry in all council districts across the region.

Tulloch/Haas

Aud. Certs. 2700399 and 2700400.

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 9:24 p.m. – 9:27 p.m.)

MOTION BY ATKINS TO CONTINUE THIS ITEM TO TUESDAY, JANUARY 9, 2007 FOR FURTHER REVIEW. 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-107: Partnership Agreement with Evolution Film and Tape, Inc.

(See Report to City Council 06-181.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-547) ADOPTED AS RESOLUTION R-302163

Authorizing the Mayor to enter into a Partnership Agreement with Evolution Film and Tape, Inc. which includes the potential receipt of $240,500 in cash to be deposited into Fund 78901 and acceptance of in-kind services and product valued at $304,000;

Authorizing the City Auditor and Comptroller to expend from Fund No. 100, Dept. 601, Org. 3305, Object Acct. 4151, payment to the Pathfinder Group in the amount of $24,050, payable at the rate of $11,050 for the second and $13,000 for the third optional years, if exercised.

STAFF SUPPORTING INFORMATION:

The purpose of this Executive Summary is to provide an overview of the requested action and background regarding the Partnership Agreement with Evolution Film & Tape, Inc. (Agreement)

which has been negotiated between the City of San Diego (City) and Evolution Film & Tape, Inc. (Evolution). The term of the Agreement is one year with two one year renewal options.

Under the Agreement, Evolution will pay the City $240,500 cash and $304,500 in-kind resources, including a fully equipped surf rescue vessel, production of lifeguard training videos and production of public safety announcements for the San Diego Lifeguards. In exchange, Evolution will receive the right to document the dramatic rescues and the personal struggles and triumphs of the San Diego Lifeguards.

The Agreement ensures that the City has no financial responsibilities or commitment to provide any funds whatsoever to the Evolution and the City has the right to creative consultation concerning any possible story issues and character situations.

FISCAL CONSIDERATIONS:
The partnership with Evolution Film & Tape, Inc. will provide the City with $544,500 in cash and in-kind resources for the term of the Agreement.

A transaction fee of $24,050 will be paid to The Pathfinder Group, the City's consultant, as per the Marketing Consultant Agreement. (Document No. C-13038)

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
Evolution Film & Tape, Inc., The Pathfinder Group.

Wolff/Goldstone

Aud. Cert. 2700279.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-108: Consultant Agreement with DeLorenzo, Incorporated for Professional Services for Carmel Valley Skate Park (Project).

(Carmel Valley Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-409) RETURNED TO MAYOR

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, an agreement with DeLorenzo, Incorporated, for professional services for Carmel Valley Skate Park (Project) under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed $291,000 from CIP-29-887.0, for the purpose of providing funds for the above referenced Project;

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

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

STAFF SUPPORTING INFORMATION:

The proposed Carmel Valley Skate Park will be located at the northwest corner of El Camino Real and Elijah Court next to the new Northwestern Area Police Station at 12780 El Camino Real in the community area of Carmel Valley in Council District 1.

On December 7, 2004, the City awarded a design-build contract for the Northwestern Area Police Station and Community Service Center (CSC) to be constructed at the intersection of El Camino Real and Elijah Court in Carmel Valley, CIP-36-059.0. In the original design-build proposal, this project was to include a CSC. The CSC was eliminated from the project and 15,000 square feet of the site became available for another use.

The community expressed a desire in using this site to develop a new skate park. The site is located near the Carmel Valley Community Park. The initial funding of $50,000 in Fund No. 390662, Sub Area II Planned Developer Impact Fee (PDIF) was approved previously by the Council to allow the Park and Recreation Department to study the viability of placing a skate park at this location.

The approval of this action will allow the Park and Recreation Department to execute the consultant agreement with DeLorenzo Inc. to provide the professional services required for the preparation of the construction documents and construction administration for the improvements of the project, which include concrete skate park, restroom / concession building, a small spectator area, site lighting for night use and landscape. The Park and Recreation Department will solicit additional community input prior to initiating design of the skate park.

FISCAL CONSIDERATIONS:
Funding for this action is available from Fund No. 79002, Carmel Valley North Facilities Benefit Assessment.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
On August 1, 2005, City Council adopted Resolution R-300716 amending Fiscal Year 2006 Capital Improvement Program by adding CIP-29-887.0, Carmel Valley Skate Park and increasing the budget amount by $50,000 from Fund No. 390662, Sub Area II PDIF, for the initiation of this project.

On September 26, 2006, City Council adopted Resolution R-301929 amending Fiscal Year 2007 Capital Improvements Program by increasing the budget amount by $400,000 from CIP-29-887.0, Carmel Valley Skate Park in Fund No. 79002, Carmel Valley North Facilities Benefit Assessment (FBA), for the design of this project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
On July 27, 2004, the Carmel Valley Community Planning Board (CVCPB) voted unanimously to remove the community service Center from the Police Station design due to the cost exceeding what was available in the Facilities Benefit Assessment.

On May 10, 2005, the CVCPB appointed a Skate Park Subcommittee to discuss the idea of a skate park as a response to several community requests.

On September 12, 2006, the CVCPB voted unanimously to support the allocation of $400,000 of FBA for the Skate Park.

Once the execution of the agreement with the design consultant is approved, Park and Recreation Department staff will initiate public outreach through design process per City Council Policy 600-33.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

- Carmel Valley Recreation Council
- Carmel Valley Community Planning Board (CVCPB)
- Carmel Valley Skate Park Focus Group as Subcommittee of CVCPB
- Prime Consultant: DeLorenzo, Inc., Sub-Consultants: Site Design Group, Inc. , Arc Pac, Inc., Burkett & Wong, Edaw, BSE Engineering, Darnell & Associates, Geocon, Inc.

Penera/Martinez

Aud. Cert. 2700371.

Staff: Reza Taleghani - (619) 533-3422
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

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

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

* ITEM-109: MCI Agreement for the Conversion of Overhead Facilities to Underground.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-537) ADOPTED AS RESOLUTION R-302164

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, an agreement with MCI Communications Services, Inc., for the relocation of overhead facilities to underground service, together with any reasonably necessary modifications or amendments thereto which the Mayor, or his designee, may deem necessary from time to time in order to carry out the purpose and intent of the agreement;

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

STAFF SUPPORTING INFORMATION:

Beginning in 1967, the Public Utilities Commission of the State of California (CPUC) instituted a statewide program to convert existing overhead lines to underground service (CPUC Program). The CPUC Program has been implemented through the CPUC's rulemaking process and conversion tariffs, including San Diego Gas and Electric's (SDG&E) Rule 20 and AT&T's Rule 32. Both Rule 20 and Rule 32 require underground conversion projects meet "public benefit" criteria.

In 1970, the City and SDG&E entered into a fifty (50) year franchise agreement, wherein SDG&E agreed to convert overhead lines to underground service per CPUC Rule 20 at a rate equal to 4.5% of their gross electric revenues. From 1979 through 2001, the rate of underground conversion of overhead lines gradually declined as low as one percent (1%) of SDG&E's gross electric revenue.

To address this decline, the City and SDG&E revised the terms of the franchise agreement for the remaining 20 years of the franchise agreement, in order to restore the rate of underground conversion of SDG&E's overhead lines to 4.5% of SDG&E's gross electric revenue. The City and SDG&E agreed to pursue an electric surcharge on electricity users within the City of San Diego, enabling the City to expand the conversion of overhead lines in residential areas (Surcharge Program). In 2002, the City amended the Underground Utility Procedural Ordinance and adopted the new City Council Policy 600-08, which requires, among other things, all companies with overhead lines within the City of San Diego to underground lines that do not

necessarily meet public benefit criteria under the conversion tariffs implementing the CPUC program.

The CPUC approved the increases to the SDG&E electric franchise fee surcharges in CPUC Resolution E-3788 on December 19, 2002. In Resolution E-3788, the CPUC granted a deviation of the CPUC Rules governing utility undergrounding in order to implement the SDG&E/City proposed underground conversion program.

In May 2002, the City revised the terms of the Cox and Time Warner cable TV franchises in order to secure the cable companies participation in the Surcharge Program. Generally, under those terms the City pays for the trenching and installation of conduit in the joint trench (conduit provided for by cable companies) and the cable companies will pay for the remainder of the undergrounding expenses. In addition, the cable companies agree to not pass those undergrounding costs on directly to their customers.

In January 2005, the City and AT&T reached a settlement agreement to secure AT&T's participation in the Surcharge Program. Under that settlement agreement, the terms are similar to that of the cable companies, except that AT&T - with the City's support - is currently in the process of seeking a surcharge on AT&T customers, both wholesale and retail, to provide the necessary funds.

With the City's support, MCI (a telecommunications company similar to AT&T) desires to participate in the Surcharge Program in a manner similar to that of the cable companies in that the City will pay for the trenching and installation of conduit in the joint trench (conduit provided for by MCI) and MCI will pay for the remainder of the undergrounding expenses. This agreement does not require CPUC approval, nor does it contemplate a cost recovery surcharge as presently being pursued by AT&T.

FISCAL CONSIDERATIONS:
The City anticipates that inclusion of MCI in the surcharge program will result in a nominal increase in program expenses for trenching and conduit installation. These costs will be paid from the Surcharge Fund. As described above, MCI will pay all other expenses associated with undergrounding their facilities.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None explicitly for this Agreement.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): Residents, Businesses, and other Utility Companies.

Boekamp/Haas/Oskoui

Staff: Afshin Oskoui - (619) 533-3102
Jeremy A. Jung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-110: California Identification (Cal-ID) Agreement with San Diego Sheriff's Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-567) ADOPTED AS RESOLUTION R-302165

Authorizing the Mayor, or his representative, to enter into and sign the Agreement for Participation in San Diego County's California Identification System Remote Access Network;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend $195,017 for FY 2005 and 2006, and the proportional share amount billed by San Diego Sheriff's Department in subsequent years, for the life of the agreement;

Authorizing the Chief of Police to administer and operate this program.

STAFF SUPPORTING INFORMATION:

The State of California Department of Emergency Services maintains an automated system called "California Identification System and Cal-Photo" (Cal-ID). This system retains and identifies fingerprints, palm prints, and photos, which are entered via Local Input Terminals

(LITs). California Penal Code, Section 11112.1 et seq. provides for establishment of a Remote Access Network ("RAN") consisting of a Statewide network of equipment and procedures that allows local law enforcement agencies direct access to Cal-ID. The San Diego County Sheriff's Department is the regional proprietary agency for the system, which is governed by the San Diego County Local Cal-ID Board.

Each City within the County of San Diego enters into a cost sharing Agreement with SDSD for services and access. This system has been in effect in the State since 1983. This is the fifth renewal of SDPD's contract. Costs are based on each agency's proportion of population and of FBI crimes. The agreement authorizes the City of San Diego to pay to the County its share of Cal-ID costs for five years, from July 1, 2005 through June 30, 2010.

FISCAL CONSIDERATIONS:
Cost to the City of San Diego for FY 2005/2006 is $195,017. Subsequent yearly costs will be calculated based on population, crime rate, and system costs, but are not expected to vary greatly. Funding will come from SDPD's general fund budget; no additional funds will be required to fulfill this agreement. The funds were encumbered by the Auditor for FY 2006 by a Departmental encumbrance.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
San Diego Police Department; San Diego Sheriffs Department; State of California.

Landsdowne/Olen

Aud. Cert. 2700289.

Staff: Kimberly Glenn - (619) 531-2415
John C. Hemmerling - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-111: Authorizing Second Amendment to the Retention of Latham & Watkins, LLP for Legal Services for Current and Former City Officials and Staff Related to SDPOA v. Michael Aguirre, et al. and Aaron, et al. v. Aguirre, City of San Diego, et al.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-586 Cor. Copy) ADOPTED AS RESOLUTION R-302166

Authorizing a Second Amended Retainer Agreement, by and between the City of San Diego and Latham & Watkins, for certain legal services regarding case SDPOA v. Michael Aguirre, et al., USDC Case No. 05cv1581H (POR) and Aaron, et al. v. Aguirre, City of San Diego, et al., USDC Court Case No. 06cv1451 JM (RBB);

Authorizing the City Auditor and Comptroller to appropriate and transfer $1,000,000 from the General Fund Unallocated Reserve to the Public Liability Fund to pay these expenditures;

Authorizing under the Second Amended Retainer Agreement the expenditure of an additional amount not to exceed $1,000,000 from Fund 81140, solely and exclusively, for the purpose of providing funds for the above project.

SUPPORTING INFORMATION:

On August 23, 2005, the San Diego Police Officers Association (SDPOA) filed and served a complaint in the case POA v. Michael Aguirre, et al., USDC Case No. 05cv1581H (POR). The case raises a number of issues related to labor negotiations and retirement issues between the City of San Diego and the SDPOA.

On December 5, 2005, the City Council approved the retention of Latham & Watkins as outside counsel to represent certain current and former City officials and staff, excluding City Attorney Michael Aguirre. The City Attorney is being represented in this action by the law firm of Wehner & Perlman, LLP.

On July 18, 2006, numerous police officers filed and served a complaint in the case Aaron v. Aguirre, City of San Diego, et al., USDC Case No. 06cv1451 JM (RBB). The Aaron case raises issues related to POA v. Michael Aguirre, et al.

In its December 2005 action, the Council authorized the retention in the amount not to exceed $200,000. On March 15, 2006, the Council authorized a second retention in the amount not to exceed $500,000.

Latham & Watkins, through this retention, has exhausted the allocated funding authorization and will need additional funding to carry the defense of this litigation through to conclusion. The City Attorney proposes to amend the agreement with Latham & Watkins for an additional authorization of not to exceed $1,000,000 for the defense of both the SDPOA and the Aaron cases. This will bring the total not-to-exceed cost for this representation to $1,700,000.

This item was heard by the City Council in Closed Session on November 14, 2006. Non-conflicted employees in the City Attorney's Office shall monitor and direct the firm's work.

FISCAL CONSIDERATIONS:
Authorizes additional $1,000,000, increasing authorization to a not-to-exceed amount of $1,700,000 to provide defense to present and former City officials and staff named as defendants in subject litigation.

With this action, the Council will authorize the City Auditor and Comptroller to appropriate and transfer $1,000,000 from the General Fund Unallocated Reserve to the Public Liability Fund to pay these expenditures.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
This item was considered in Closed Session on November 14, 2006. On that date, the Council voted unanimously (8-0) to authorize additional funding for the law firm of Latham & Watkins as outside counsel in an amount not to exceed $ 1,000,000. The Council further determined that the funding for this action was to come from the Public Liability Fund. The motion was made by Councilmember Frye with a second by Councilmember Madaffer.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
N/A

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

Lara/Goldstone

Aud. Cert. 2700393.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-112: First Amendment to the Retainer Agreement with Latham & Watkins for Outside Counsel Services in McGuigan v. City of San Diego, San Diego Superior Court Case No. GIC 849883.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-598 Cor. Copy) ADOPTED AS RESOLUTION R-302167

Authorizing a First Amended Retainer Agreement with the firm of Latham & Watkins for the provision of legal services in McGuigan v. City of San Diego, San Diego Superior Court Case No. GIC 849883;

Authorizing the City Auditor and Comptroller to appropriate and transfer $200,000 from the General Fund Unallocated Reserve to the Public Liability Fund to pay these expenditures;

Authorizing the expenditure of an amount not to exceed $200,000 from Liability Fund No. 81140, solely and exclusively, for the purpose of providing funds for the above agreement.

SUPPORTING INFORMATION:

On May 30, 2006, the City Council met in a duly-noticed Closed Session and determined to retain outside counsel, Latham & Watkins LLP ("Latham") in the matter of McGuigan v. City of San Diego, San Diego Superior Court Case No. GIC 849883.

This lawsuit was filed on behalf of a retired City employee against the City of San Diego requesting that the Court order the City to immediately pay all unfunded employer contributions from 1996 to 2005 into the retirement system.

On June 4, 2006, the City entered into a settlement of the litigation, in which the City agreed to pay $173 million into the retirement system, with $100 million paid from tobacco securitization monies and the remaining $73 million paid over 5 years and secured by real property collateral, in exchange for a release of all underfunding claims against the City.

The McGuigan settlement agreement has not yet been approved by the court because of numerous objections by City employee unions, including the San Diego Police Officers' Association.

Because of the continuing nature of the litigation, the initial $300,000 authorization has been exhausted and the City Attorney requests an additional $200,000 be authorized to allow Latham's retention to continue.

FISCAL CONSIDERATIONS:
The City Council will authorize the expenditure of $200,000 in funds from the Public Liability Fund (81140) reserves to fund this amendment.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
This item was considered in Closed Session on November 14, 2006. On that date, the Council voted unanimously (8-0) to authorize additional funding for the law firm of Latham & Watkins as outside counsel in an amount not to exceed $200,000. The Council further determined that the funding for this action was to come from the Public Liability Fund. The motion was made by Councilmember Frye with a second by Councilmember Hueso.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
N.A.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Law firm of Latham & Watkins, Kristine Wilkes, lead partner

Sachs

Aud. Cert. 2700397.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-113: Sixth Amendment to the Retainer Agreement with Latham & Watkins for Outside Counsel Services in Otay Acquisition v. City, S.D.S.C. No. GIC 753247; National Enterprises v. City, S.D.S.C No. GIC 730011; Border Business Park, Inc. v. City, S.D.S.C. No. GIC 692794; and Related Items.

(Otay Mesa Community Area. District 8.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-584 Cor. Copy) ADOPTED AS RESOLUTION R-302168

Authorizing a Sixth Amendment to the Retainer Agreement by and between the City of San Diego and Latham & Watkins, for legal services in Otay Acquisition v. City of San Diego, San Diego Superior Court Case No. GIC 753247, National Enterprise v. City of San Diego, San Diego Superior Court Case No. GIC 730011, and Border Business Park, Inc. v. City of San Diego, San Diego Superior Court Case No. GIC 692794;

Authorizing the City Auditor and Comptroller to appropriate and transfer $200,000 from the General Fund Unallocated Reserve to the Public Liability fund to pay these expenditures;

Authorizing the expenditure of an amount not to exceed $200,000 from Public Liability Fund No. 81140, solely and exclusively, for the purpose of providing funds for the above Agreement.

SUPPORTING INFORMATION:

Since February of 2001, the City has been represented by outside counsel, Latham & Watkins LLP ("Latham") on post-trial motions, trial court proceedings, appellate proceedings and settlement discussions in three De La Fuente cases, Otay Acquisitions v. City, S.D.S.C. Case No. GIC 753247; National Enterprises v. City, S.D.S.C. Case No. GIC 730011; and Border Business Park, Inc. v. City, S.D.S.C. Case No. GIC 692794. The latter case, Border, resulted in a $94.5 million verdict against the City in January 2001. Another law firm, Horvitz & Levy, is co-counsel with Latham on the Border appeal.

On September 19, 2006, the California Fourth District Court of Appeal rejected most of the Border claims and remanded the breach of agreement claim for a new trial. Plaintiffs in these actions are presently seeking review by the California Supreme Court. To date, the Council has authorized $8 million for outside counsel and consultant fees for defense of the De La Fuente cases and related matters (approximately $1.5 million of this was paid to the City's trial and post-trial consultants).

Additional funding of $200,000 is now requested to fund the necessary ongoing outside counsel services, which include (1) additional briefing filed with the California Supreme Court in the Border matter; and (2) preparing for defense of all three cases upon remand to the trial court.

REIMBURSEMENT OF CITY'S DEFENSE COSTS

As a result of the City's successful litigation against the City's insurance carriers, more than $5.6 million in insurance proceeds have already been received to help defray the costs of the representation for defense of these matters (including fees paid to both Latham and Horvitz and Levy, as well as consultant fees), and for payment of damages (if any).

In addition to monies received from ISOP, another City insurer, United National, without litigation has paid one occurrence policy limit ($2 million), which the City can use to fund any settlement or liability in the De La Fuente cases.

FISCAL CONSIDERATIONS:
The City Council will authorize the expenditure of funds from the Public Liability Fund (81140) reserves to fund this amendment. Bills will continue to be partially reimbursed by insurance carrier.

Because of the depletion of funds in the Public Liability Fund, today's action will also authorize the City Auditor and Comptroller to appropriate and transfer $200,000 from the General Fund Unallocated Reserve to the Public Liability Fund to pay these expenditures.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
This item was considered in Closed Session on November 14, 2006. On that date, the Council voted unanimously (8-0) to authorize additional funding for the Law Firm of Latham & Watkins as outside counsel in an amount not to exceed $200,000. The Council further determined that the funding for this action was to come from the public liability fund. The motion was made by Council President Peters with a second by Councilmember Hueso.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): Law Firm of Latham & Watkins, Kristine Wilkes, lead partner.

Sachs

Aud. Cert. 2700395.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-114: Fourth Amendment with Horvitz and Levy for Appellate Outside Counsel Services in Otay Acquisition v. City, S.D.S.C. Case No. GIC 753247; National Enterprises v. City, S.D.S.C. Case No. GIC 730011; Border Business Park, Inc. v. City, S.D.S.C. Case No. GIC 692794; and Related Matters.

(Otay Mesa Community Area. District 8.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-587 Cor. Copy) ADOPTED AS RESOLUTON R-302169

Authorizing a Fourth Amendment to the Retainer Agreement by and between the City of San Diego and Horvitz & Levy, for appellate legal services in Otay Acquisition v. City of San Diego, San Diego Superior Court Case No. GIC 753247, and National Enterprise v. City of San Diego, San Diego Superior Court Case No. GIC 730011, and Border Business Park, Inc. v. City of San Diego, San Diego Superior Court Case No. 692794, for certain legal services;

Authorizing the City Auditor and Comptroller to appropriate and transfer $200,000 from the General Fund Unallocated Reserve to the Public Liability Fund to pay these expenditures;

Authorizing the expenditure of an additional amount not to exceed $200,000 from Liability Fund 81140, exclusively for the purpose of providing funds for the above project.

SUPPORTING INFORMATION:

Since March 2001, the firm of Horvitz & Levy has served as co-counsel to Latham & Watkins on appellate matters in the three De La Fuente cases, Otay Acquisitions v. City, S.D.S.C. Case No. GIC 753247; National Enterprises v. City, S.D.S.C. Case No. GIC 730011; and Border Business Park, Inc. v. City, S.D.S.C. Case No. GIC 692794. The latter case, Border, resulted in a $94.5 million verdict against the City in January 2001. Another law firm, Horvitz & Levy, is co-counsel with Latham on the Border appeal.

On September 19, 2006, the California Fourth District Court of Appeal rejected most of the Border claims and remanded the breach of agreement claim for a new trial. Plaintiffs in these actions are presently seeking review by the California Supreme Court.

The Horvitz firm's work in preparation for the oral argument at the Fourth District Court of Appeal was extensive, and hence the firm has exhausted its previous authorizations, including its most recent authorization for $100,000.

Additional funding of $200,000 is now requested to fund the necessary ongoing outside counsel services and to pay arrearages. Horvitz' work going forward will include working with Latham and Watkins on briefing filed with the California Supreme Court in the Border matter.

REIMBURSEMENT OF CITY'S DEFENSE COSTS
As a result of the City's successful litigation against the City's insurance carriers, more than $5.6 million in insurance proceeds have already been received to help defray the costs of the representation for defense of these matters (including fees paid to both Horvitz and Levy, Latham and Watkins, as well as consultant fees), and for payment of damages (if any). In addition to monies received from ISOP, another City insurer, United National, without litigation has paid one occurrence policy limit ($2 million), which the City can use to fund any settlement or liability in the De La Fuente cases.

FISCAL CONSIDERATIONS:
The City Council will authorize the expenditure of funds from the Public Liability Fund (81140) reserves to fund this amendment. Bills will continue to be partially reimbursed by insurance carrier.

Due to the depletion of the Public Liability Fund, the Council's action will authorize the transfer of funds from the General Fund Unallocated Reserve to the Public Liability Fund to fund this authorization.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
This item was considered in Closed Session on November 14, 2006. On that date, the Council voted unanimously (8-0) to authorize additional funding for the law firm of Horvitz & Levy as outside counsel in an amount not to exceed $200,000. The Council further determined that the funding for this action was to come from the public liability fund. The motion was made by Council President Peters with a second by Councilmember Hueso.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Law firm of Horvitz & Levy, Barry Levy, lead counsel

Sachs

Aud. Cert. 2700394.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-115: Retention of Latham & Watkins, LLP for Legal Services for Case Marcus R. Abbe, et al. v. City of San Diego, USDC Case No. 05CV1629 DMS (SDPOAII).

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-425) ADOPTED AS RESOLUTION R-302170

Authorizing a Retainer Agreement, by and between the City of San Diego and Latham & Watkins, LLP for certain legal services regarding the case of Marcus R. Abbe, et al. v. City of San Diego, USDC Case No. 05cv1629 DMS; Authorizing under the Retainer Agreement the expenditure of an amount not to exceed $250,000 from Fund 81140, solely and exclusively, for the purpose of providing funds for the above project.

SUPPORTING INFORMATION:

On August 16, 2005, current and former San Diego Police Department officers filed a lawsuit against the City in the case of Marcus R. Abbe, et al. v. City of San Diego, USDC Case No. 05cv1629 DMS. The case has been consolidated by the United States District Court with a related case, Burkett v. City of San Diego, USDC Case No. 05cv1629 DMS. There are over 1400 Plaintiffs.

The Plaintiffs contend that their rights to compensation, including overtime pay, under the Fair Labor Standards Act have been violated by the City. They also contend they have not been fully reimbursed for work-related expenses and the City should be penalized for alleged meal break violations. Finally, they assert that their individual rights under a memorandum of understanding and the San Diego Police Officers Association have been violated. Outside counsel is needed because of the complexity of the issues and the extent of damages claimed by the Plaintiffs' attorneys.

FISCAL CONSIDERATIONS:
Authorizes an amount which may not exceed $250,000 to provide the defense to the City in the subject litigation. Authorizes the City Auditor and Comptroller to issue an Auditor's Certificate provided that the Auditor certifies that sufficient funding is available in the Public Liability Fund (Fund 81140) for these purposes.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Retention for not to exceed $250,000 authorized in Special Closed Session on Tuesday, August 1, 2006, with a 7-0 vote. Councilmember Scott Peters made the motion, seconded by Councilmember Jim Madaffer.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Latham & Watkins, LLP and attorney Peter Benzian.

Schaefer
Aud. Cert. 2700378.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-116: Balboa Avenue Streetscape Improvements Project Endowment Fund.

(See memorandum from Councilmember Frye's dated 8/16/2006. District 6.)

COUNCILMEMBER FRYE'S RECOMMENDATION:

Take the following action:

(R-2007-000) ADOPTED AS RESOLUTION R-302171

Direct the City Attorney to draft a resolution within the next ten days which would:

A. Transfer $200,000 from CIP-52-274.0, Balboa Avenue Corridor Improvements Project, Fund 38978, State Cooperative Agreement Fund, to the special interest-bearing Fund 389781;

B. Authorize the expenditure of up to $200,000 subject to Auditor's certificate for such representation.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:59 a.m. – 12:00 p.m.)

MOTION BY FRYE TO DIRECT THE CITY AUDITOR AND COMPTROLLER TO TRANSFER THE EXPENDITURE OF $200,000 INTO THE BALBOA AVENUE SPECIAL INTEREST BEARING ACCOUNT FUND 389781 TO BE USED BY THE PARK AND RECREATION DEPARTMENT. AS FAR AS THE INTEREST, TO MANAGE AND MAINTAIN THE BALBOA AVENUE MEDIAN PROJECT. ONCE THE PROJECT IS COMPLETED, THE $200,000 SHOULD BE TRANSFERRED FROM CIP-52-274.0, BALBOA AVENUE CORRIDOR IMPROVEMENTS PROJECT, FUND 38978 TO FUND STATE COOPERATIVE AGREEMENT FUND, TO THE SPECIAL INTEREST-BEARING FUND 389781. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-117: Retention of Latham & Watkins, LLP for Outside Counsel Services in Joseph A. Lopez, et al. v. City of San Diego, San Diego Superior Court Case No. GIC 869054.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-583) ADOPTED AS RESOLUTION R-302172

Authorizing a Retainer Agreement with Latham & Watkins, LLP for certain legal services regarding the case of Joseph A. Lopez, et al. v. City of San Diego, Superior Court Case Number GIC 869054;

Authorizing under the Retainer Agreement the expenditure of an amount not to exceed $250,000 from Fund 81140, solely and exclusively, for the purpose of providing funds for the project.

SUPPORTING INFORMATION:

In the Lopez case, police officers in the motorcycle unit sued the City for a declaratory ruling that a specialty pay they receive for off-duty care of their motorcycles should be included in "Retirement Base Compensation" for the purpose of calculating retirement benefits.

Specifically, the plaintiff police officers in the Lopez case seek a judicial declaration that the City is required pursuant to San Diego Municipal Code Section 24.0103 to include "Motorcycle Care Pay" in Retirement Base Compensation. The applicable Memorandum of Understanding between the City of San Diego and the San Diego Police Officers Association has included a provision for the last twenty years that officers assigned to the Motorcycle Unit "will be paid 2 additional hours of compensation each 40-hour work week at premium rate overtime" for time spent cleaning, preparing and maintaining their equipment.

The Lopez case has only recently been filed. The City has answered the complaint but no substantive discovery or investigation has been conducted. This retention will enable the City to consolidate the handling of all police related cases with Peter Benzian of the Latham firm.

FISCAL CONSIDERATIONS:
The City Council will authorize the expenditure of funds from the Public Liability Fund (81140) reserves to fund this authorization.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
In the Closed Session Meeting of November 14, 2006, in the matter of Lopez v. City of San Diego, San Diego Superior Court Case No. GIC 869054, the City Council voted unanimously (8 to 0) to retain the law firm of Latham and Watkins as outside counsel in an amount not to exceed $250,000 and the funding is to come from the Public Liability Fund. The motion was made by Councilmember Frye with a second by Councilmember Madaffer.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Law Firm of Latham & Watkins, Peter Benzian, lead partner.

Gordon

Aud. Cert. 2700391.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-118: Retention of Latham & Watkins, LLP for Outside Counsel Services in Steven A. Sloan, et al. v. City of San Diego S.D.S.C. Case No. GIC848641; 4th Appellate District Case No. D0-49158.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-582) ADOPTED AS RESOLUTION R-302173

Authorizing a Retainer Agreement with Latham & Watkins, LLP for certain legal services regarding the case of Steven A. Sloan, et al. v. City of San Diego, SDSC Case No. GIC848641; 4th Appellate District Case No. D049158;

Authorizing the expenditure of an amount not to exceed $250,000 from Fund 81140, for the project.

SUPPORTING INFORMATION:

In the Sloan case, police officers in the canine unit sued the City for a declaratory ruling that a specialty pay they receive for off-duty care of their police dogs should be included in "Retirement Base Compensation" for the purpose of calculating retirement benefits.

Specifically, the plaintiff police officers in the Sloan case sought, and received, a judicial declaration that the City is required pursuant to San Diego Municipal Code Section 24.0103 to include "Canine Care Pay" in Retirement Base Compensation. The applicable Memorandum of Understanding between the City of San Diego and the San Diego Police Officers Association has included a provision for the last twenty years that officers assigned to the Canine Unit "will be paid 3.5 additional hours of compensation each 40-hour work week at premium rate overtime" for time spent caring for their dogs. (MOU Article 32, Section 7).

As stated above, the first lawsuit filed, Sloan v. City of San Diego, has already been adjudicated in the plaintiffs' favor in the trial court. Judge Judith Hayes heard the case at a bench trial on May 31, 2006, and issued her ruling on June 12, 2006.

The City filed a Notice of Appeal challenging the trial court's ruling. The opening brief is due on December 15, 2006. The City Attorney requests the retention of Latham & Watkins to assist in the appeal. This retention will enable the City to consolidate the handling of all police related cases with Peter Benzian of the Latham firm.

FISCAL CONSIDERATIONS:
The City Council will authorize the expenditure of funds from the Public Liability Fund (81140) reserves to fund this authorization.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
In the Closed Session Meeting of November 14, 2006, in the matter of Sloan v. City of San Diego, Superior Court Case No. GIC849127 and Appellate District No. D049158, the City Council voted unanimously (8 to 0) to retain the law firm of Latham and Watkins as outside counsel to pursue the City's appeal in an amount not to exceed $250,000 and the funding is to

come from the Public Liability Fund. The motion was made by Councilmember Frye with a second by Councilmember Madaffer.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Law firm of Latham & Watkins, Peter Benzian, lead partner.

Gordon

Aud. Cert. 2700392.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-119: Grant Application to Price Charities for the City Heights Swimming Pool Programs (Project).

(City Heights Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-603) ADOPTED AS RESOLUTION R-302174

Authorizing the Mayor, or his representative, to apply to Price Charities, a non profit corporation under 501(c)(3), for $42,600 grant funds for the City Heights Swimming Pool Programs (Project);

Authorizing the Mayor, or his representative, to take all necessary actions to secure funding from Price Charities for the Project;

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

Authorizing the City Auditor and Comptroller to establish a special interest-bearing fund for the Grant;

Declaring this activity is exempt from CEQA pursuant to Section 15061(b)(3), as defined by the State CEQA Guidelines.

STAFF SUPPORTING INFORMATION:

This grant will provide one-time operating and maintenance funds, including staff costs, for the City Heights Pool. This will allow the pool to remain open from November 20, 2006 to January 8, 2007. The pool is scheduled to resume normal operation on January 9, 2007 for the remainder of the fiscal year.

Embracing a philosophy of proactive charitable giving, Price Charities is committed to allocating a substantial portion of its charitable dollars to revitalizing City Heights, a low-income community in San Diego. Since 1994, Price Charities has worked with the community of City Heights to build an "Urban Village" in the core of the community. Price Charities has focused a large share of its charitable spending on working with the community of City Heights to develop innovative programs aimed at improving the schools, housing stock, public safety, and public health.

FISCAL CONSIDERATIONS:
Due to budget constraints, City Heights Pool was scheduled to close on October 23, 2006. The pool closed from October 23, 2006 to November 19, 2006 for maintenance. The infusion of grant funds will allow City staff to keep the pool open, ensuring continued access to the pool for exercise programs, youth team sports and recreational swimming.

This action will fund operating and maintenance costs at the City Heights Swimming Pool, allowing the pool to remain open during the scheduled closure and resume operations for remainder of this fiscal year.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Stakeholders: CD-3 constituents
Impact: City Heights Swimming Pool will remain open to the public from November 23, 2006 through June 30, 2007.

Medina/Martinez

Staff: Isabel Vargas - (619) 685-1308
Pedro De Lara, Jr. - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-120: Brown Field Perimeter Security Fencing – Phase I.

(Otay Mesa Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-624) ADOPTED AS RESOLUTION R-302175

Authorizing the Mayor, or his designee, to accept a FAA Airport Development Grant in the amount of $171,000, for the Perimeter Fence Project at Brown Field Airport;

Authorizing the City Auditor and Comptroller to transfer $9,000 from the Airports Annual Allocation fund 10511/10511/4279/310010 to CIP-31-176.0;

Authorizing the Mayor, or his designee, to appropriate and expend funds from CIP-31-176.0, for the Brown Field Perimeter Security Fencing in a sum not to exceed $180,000;

Amending Fiscal Year 2007 Capital Improvements Program, Brown Field Perimeter Fencing, to increase CIP-31-176.0, by $180,000;

Authorizing the Mayor, or his designee, to enter into an agreement for the construction of the perimeter security fencing with Morans Construction, as the lowest responsible bidder, in an amount not to exceed $157,204.

STAFF SUPPORTING INFORMATION:

The purpose of this action is to request the authorization for the Mayor, or his representatives, to accept Federal grant funds to begin Phase I construction of the Brown Field Perimeter Security Fencing on the Northern portion of the airport along Pogo Road. This project will enhance safety and has been assigned a high priority by the FAA Runway Safety Action Team (RSAT).

FISCAL CONSIDERATIONS:
The total estimated cost of Phase I of this project is $180,000. Funds have been appropriated into CIP-31-176.0.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
During the design stages, this project was presented to the Airport Advisory Committee (AAC), who are in favor of this capital improvement. The users of Brown Field Airport will be briefed at upcoming AAC meetings, by the Deputy Director of the Airports Division.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
Key Stakeholders:

1. Morans Construction (Contractor - Low Bidder)
2. Brown Field Airport users and businesses
3. FAA Tower and RSAT

Project Impacts: No impacts expected.

Barwick/Waring

Staff: Mike Tussey - (858) 573-1441
John Serrano - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-121: Brown Field Airfield Electrical System Upgrade – Phase I.

(Otay Mesa Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-623) ADOPTED AS RESOLUTION R-302176

Authorizing the Mayor, or his designee, to accept the Federal Aviation Administration Grant Offer in the amount of $1,111,500;

Authorizing the transfer of $151,601.55 from the Airport Fund 310010, Annual Allocation Fund, to CIP-31-300.0 as the 5% City matching funds for the project;

Authorizing the Mayor, or his designee, to enter into an agreement for the design of the electrical upgrade, Phase 2, with the HNTB Corporation, as the lowest responsible bidder, in an amount not to exceed $347,064;

Authorizing the Mayor, or his designee, to enter into an agreement for the construction of the upgrade with Nova Electric Inc., as the lowest responsible bidder, in an amount not to exceed $964,240;

Authorizing the City Auditor and Comptroller to release $1,267,101.55 from CIP-31-300.0 for the Brown Field Runway Electrical Upgrade, Phase 2;

Increasing the Fiscal Year 2007 CIP Budget in the amount of $1,267,101.55.

STAFF SUPPORTING INFORMATION:

The Airports Division has proposed improvements to the Brown Field Airfield electrical system. This work is designated as a high priority by the Federal Aviation Administration (FAA), due to its impact on safety. The FAA has provided a funding agreement in the amount of $1,111,500 for the construction of this project for the first phase of upgrades. Furthermore, as part of the same grant agreement the FAA has offered the Airports Division $171,000 for the construction of Brown Field Perimeter Security Fencing - Phase I (CIP-31-176.0) which will be requested for acceptance on a separate "Request for Council Action (1472)".

The existing Brown Field airfield lighting system, that provides visual guidance for aircraft operating at night and in inclement weather, has had multiple failures over the last several years. These failures have not only been costly to repair, but have been responsible for aircraft deviations and diversions. This system will be upgraded in two phases, due to FAA grant funding constraints.

The first phase will replace many components of the electrical system that date back to the 1960s. Additionally, the upgrade will add visual navigation equipment to enhance both vertical and lateral guidance for aircraft approaching at night or in inclement weather and will further enhance the safety and operational effectiveness of the airport. It is anticipated that this project should be ready for construction within the next several months.

FISCAL CONSIDERATIONS:
The total estimated cost of Phase I of this project is $1,597,101.55. Funds are available in Fund 41100, Operation and Maintenance, for this purpose. $1,111,500 of the total project amount will be reimbursed by a grant from the FAA. The future funding for Phase II is anticipated in the amount of $2,369,390 for both consultant services and to complete the construction of the final phase. The final phase is expected to be reimbursed at 95% by FAA funds or approximately $2,250,920 during fiscal year 2008.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
During the design stages, this project was presented to the Airport Advisory Committee (AAC), who are in favor of this capital improvement. The users of Brown Field Airport will be briefed at upcoming AAC meetings, by the Deputy Director of the Airports Division.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
Key Stakeholders:
1. HNTB (Design Consultant)

2. JB Masonry, Inc. (Masonry Subcontractor)
3. Rick Garcia Construction (Concrete Sub)
4. Western Steel (Steel Work Sub)
5. Miller Paving (Paving Sub)
6. PDI Coatings (Floor Coatings Sub)
7. Nova Electric Inc. (Contractor - Low Bidder)
8. Brown Field Airport Users and businesses.
9. FAA

Projected Impacts: The users of Brown Field Airport may encounter minor inconveniences during construction. After completion, users will experience improved safety.

Barwick/Reynolds

Aud. Cert. 2700390.

Staff: Mike Tussey - (858) 573-1441
John H. Serrano - Deputy City Attorney

FILE LOCATION: CONT-NOVA ELECTRIC, INC.

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-122: Award Montgomery Field Blast Pad Contract to Lowest Responsible/Reliable Bidder.

(Kearny Mesa Community Area. District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-622) ADOPTED AS RESOLUTION R-302177

Authorizing the Mayor to accept the Federal Aviation Administration Grant Offer in the amount of $427,500;

Authorizing the transfer of $7,711.05 from the Airport Fund 310010, Annual Allocation Fund, to CIP-31-313.1 as the 5% City matching funds for the project;

Authorizing the Mayor, or his designee, to enter into an agreement for the construction of the Blast Pad with the Daley Corporation, as the lowest responsible bidder, in an amount not to exceed $322,071;

Authorizing the Mayor, or his designee, to expend $435,211.05 from CIP-31-313.1 for the Montgomery Field Blast Pad; and

Increasing the Fiscal Year 2007 CIP Budget in the amount of $435,211.05.

STAFF SUPPORTING INFORMATION:

The Airports Division has proposed improvements to the Montgomery Field Runway 28L. This work is designated as the highest safety priority by the FAA's Runway Safety Action Team (RSAT). The FAA has provided a funding agreement in the amount of $427,500 for the construction of this project.

The Blast Pad will eliminate the loose rock surface of the Runway Safety Area (RSA), which has led to many tower callouts for the cleanup of Foreign Object Debris (FOD) on the approach end of Runway 28L. The construction of the blast pad ill bring the RSA into compliance by providing an improvement over the drainage ditch which begins at approximately 220 ft. from the approach end. These changes will significantly improve the safety at runway 28L.

FISCAL CONSIDERATIONS:
The total estimated cost of Phase I of this project is $435,211.05. Funds are available in Fund 310010, Annual Allocation, for this purpose. $427,500 will be reimbursed by a grant from the FAA.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
During the design stages, this project was presented to the Airport Advisory Committee (AAC). The users of Montgomery Field Airport will be briefed at upcoming AAC meetings, by the Deputy Director of the Airports Division.

Adopt the following resolution:

(R-2007-417) ADOPTED AS RESOLUTION R-302178

Authorizing the City Auditor and Comptroller to accept $5,828,241.54 in Fiscal Year 2006 Proposition 42 funding, Fund 30307;

Authorizing the City Auditor and Comptroller to transfer $5,828,241.54 from Fund 30307, to Fund 100 Department 534, General Services - Street Division Operating Fund and transfer $5,828,241.54 from Fund 100, Department 534 to Fund 30300;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2007 Capital Improvements Program budget by $5,828,241.54 of which $2,515,496.77 in CIP-59-001.0, Resurfacing of Streets, TransNet Fund 30300, and $3,312,744.77 in CIP-13-005.0, Emergency Drainage Projects, TransNet Fund 30300;

Authorizing the City Auditor and Comptroller the appropriation and expenditure of $2,515,496.77 from CIP-59-001.0, Resurfacing of City Streets, Fund 30300, and $3,312,744.77 from CIP-13-005.0, Emergency Drainage Projects, Fund 30300;

Finding that this activity is not a project because this activity is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15378(b)(4) and 15060(c)(2).

STAFF SUPPORTING INFORMATION:

In 2002, the voters approved Proposition 42, the Transportation Congestion Improvement Act of 2002. This California Constitutional amendment requires that sales and similar taxes upon the consumption of motor vehicle fuel deposited in the State General Fund to be transferred to the Transportation Investment Fund, and then those funds are to be distributed by formula to various transportation projects, including street and highway maintenance performed by cities.

Proposition 42 has a number of implementing procedures that affect the receipt and distribution of these funds. First, the California Constitution allows the Governor to proclaim a fiscal emergency which, upon the Legislature passing a statute, allows the State to suspend transferring

these funds. Second, the Revenue and Taxation Code specifies: (1) that local governments must maintain the same level of general fund contributions to streets maintenances represented by the average of expenditures for the 1996/97, 1997/98 and 1998/99 fiscal years and (2) that payments to local governments are to be made on a quarterly basis. If local government general fund expenditures drop below the 1996-1998 three-year average in any one fiscal year, those expenditures must be made up in the following fiscal year. Third, the State Controller has published guidelines implementing the Revenue and Taxation Code requirements that penalize local governments for not maintaining historic spending levels by requiring all Proposition 42 funds received during a non-compliant year to be returned to the State with interest.

AB2928/Prop 42 MOE base was calculated from the average expenditures of discretionary funds of FY 97 through FY 99 and the expenditure base is $15,869,398. This year's budget is $50,000,000, so current year expenditures exceed the three-year average of $16,000,000.

During Fiscal Year 2006, $5,828,241.54 of Proposition 42 funding was received by the City of San Diego. These funds were not budgeted because, while the first quarterly payment was timely, the second and third quarterly payments were delayed due to the State budget process and the potential for the Governor to suspend payments due to a fiscal emergency. The department is now requesting approval to appropriate and expend monies received from Proposition 42 during Fiscal Year 2006 totaling $5,828,241.54. Due to the Proposition 42 requirement that funds received must be expended within two years of receipt, Staff has determined that it will be more cost effective to utilize the Proposition 42 funds to reimburse prior expenditures within the Street Division's operating budget thus ensuring the expense of Proposition 42 funds and move TransNet funds into the CIP.

The General Services Department-Street Division is requesting approval to appropriate $2,515,496.77 of the re-allocated TransNet funds for the purpose of street maintenance and repair. Award of contracts, identifying specific locations, will be authorized by subsequent Council action.

The General Services Department-Street Division is also requesting approval to appropriate $3,312,744.77 of the re-allocated Transnet funds into CIP-13-005.0 for emergency storm drain projects that are eligible for reimbursement from the Federal Emergency Management Agency (FEMA). Projects to be funded are detailed in Attachment A.

FISCAL CONSIDERATIONS:
Funding in the amount of $5,828,241.54 was received in Fiscal Year 2006 and is available in Fund 30307.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Item 6c of the Fiscal Year 2006 June Revision to the budget, approved by Council on June 10, 2005, states that Proposition 42 funding would be available for such projects as slurry sealing and street resurfacing, pothole repair, sidewalks and other related infrastructure improvements.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Sierra/Haas

Aud. Cert. 2700270.

Staff: Elsa Lopez - (619) 527-7522
Timothy J. Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-124: Settlement of Personal Injury Claim of Michael Barney vs. City of San Diego.

(District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-415) ADOPTED AS RESOLUTION R-302179

A Resolution approved by the City Council in Closed Session on Tuesday, October 10, 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 the total sum of One-Hundred Twenty-Five Thousand Dollars ($125,000) in the settlement of each and every claim against the City of San Diego, its agents and employees, in Superior Court Case No. GIC 853548; Michael Barney v. City of San Diego, resulting from a sidewalk cut made by City employees;

Authorizing the City Auditor and Comptroller to issue one check in the amount of $125,000, made payable to Michael Barney and his Attorney, Oliver Chami, in full settlement of the lawsuit and of all claims;

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

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims arising from a bicycle accident which occurred on November 6, 2004, on Black Mountain Road.

FISCAL CONSIDERATIONS:
Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
This item was heard in Closed Session on October 10, 2006. A motion was made by Councilmember Madaffer and second by Councilmember Frye to accept plaintiff Michael Barney's settlement offer in the amount of $125,000. (Vote 7-0) Councilmember Maienschein not present.

COMMUNITY PARTICIPATION AND PUBLIC OUTRE'ACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Bych/Goldstone

Aud. Cert. 2700320.

Staff: Debra Benoit - (619) 531-6555
John Riley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-125: Mid-City Transit Gateways – Settlement of Contractual Claim.

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

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-585) ADOPTED AS RESOLUTION R-302180

A Resolution approved by the City Council in Closed Session on Tuesday, November 21, 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, contingent upon the City Auditor and Comptroller first certifying that the money is available, to pay the total sum of $270,782 for the release and the settlement of each and every claim against the City of San Diego, its agents and employees, submitted in the contractual claims resulting from the delay and extra work costs arising out of the work performed by METRO-BUILDERS ENGINEERING GROUP on the contracts for construction of Mid-City Transit Facilities at El Cajon Boulevard and University Avenue;

Authorizing the City Auditor and Comptroller to issue one check in the amount of $270,782, made payable to METRO-BUILDERS ENGINEERING GROUP, in full settlement of all claims.

STAFF SUPPORTING INFORMATION:

On August 3, 2004, the City of San Diego entered into two contracts for the construction of the Mid-City Transit Gateways at El Cajon Boulevard and University Avenue with Metro-Builders & Engineers Group. Both projects have been completed and are in operation. During the construction the contractor encountered conditions which caused delay in the completion of the project and additional costs. A settlement agreement was heard in Closed Session at November 21, 2006 meeting. This action will authorize the Mayor to pay $270,782 for the Mid-City Transit Gateways project, for full settlement of contractual claims to Metro-Builders & Engineers Group.

FISCAL CONSIDERATIONS:
This action will authorize the Mayor to pay the total sum of $270,782 for full settlement of contractual claims against the City of San Diego. Funding is available in the amount of $270,782 from Mid-City Transit Gateways project, CIP-39-232.0.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
On January 13, 2004, by Resolution No. R-301287, the City Council authorized the award and expenditure of funds for the construction of the Mid-City Transit Gateways project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
None with this action. However, community meetings were held during design of the project for community approval.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Key stakeholders include the Mid-City business community and residents who use the bridge decks or use public transportation.

Anderson/Waring

Staff: Scott Kessler - (619) 533-4234
Marie Wright-Travis - Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-126: Authorization to Extend the North Park Project Area Committee (PAC) by One Year and to Notice and Conduct the PAC Elections for 2007.

(North Park Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-564) ADOPTED AS RESOLUTION R-302181

Declaring that the North Park PAC is extended for one year;

Directing the staff of the Redevelopment Agency of the City of San Diego to notice and conduct the annual PAC Election in 2007;

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

STAFF SUPPORTING INFORMATION:

At the establishment of a Redevelopment Project Area, California Community Redevelopment Law, California Health and Safety Code Section 33385, requires the legislative body of a city to call upon residents and existing community organizations in a redevelopment project area to form a PAC if there is a substantial number of low or moderate-income residents within the project area and the redevelopment plan contains authority for the agency to acquire property by eminent domain on which anyone resides; or the redevelopment plan contains one or more public projects that will displace a substantial number of low/moderate-income residents. Each PAC

serves as an advisory body to the Redevelopment Agency on policy matters affecting the residents of the project area. The Agency is required to consult with the PAC for at least three years after the redevelopment plan is adopted, subject to one year extensions by the legislative body.

Each PAC is elected and conducts its business in accordance with its specific PAC Formation Procedures ("Procedures") that were adopted individually by the City Council. The Procedures address the purpose and authority of the PAC, define the PAC's composition and membership, establish eligibility requirements for the term of membership and set procedures for conducting elections.

In accordance with PAC Formation Procedures for the North Park PAC, Agency staff must seek authorization from the City Council to: 1) Extend the Redevelopment PAC for one year and 2) Notice and conduct PAC Elections.

FISCAL CONSIDERATIONS: None with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
On December 29, 2005 the City Council of the City of San Diego, approved R-301085 to extend the North Park PAC for one year.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Not applicable.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
North Park Redevelopment PAC.

Ostrye/Waring

Staff: Tom Romstad - (619) 533-5284
Huston Carlyle – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-127: 2006 Project Area Committee Election Results for the City Heights Redevelopment Project Area.

(See Report to the City Council No 06-186. City Heights Community Area. Districts 3, 4, and 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-599) ADOPTED AS RESOLUTION R-302220

Approving as constituting a representative Project Area Committee the City Heights Redevelopment Project Area Committee consisting of persons named on the list of Project Area Committee members receiving the highest number of votes attached hereto as Exhibit A and incorporated herein by this reference;

Concurring that the election results of November 15, 2006 are valid and binding in accordance with the procedures so adopted by Resolution No. R-298199;

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

STAFF SUPPORTING INFORMATION:

Council authorized a one-year extension of the PAC and directed Redevelopment Agency staff to notice and conduct an election for the City Heights Redevelopment Area PAC in 2006 by Resolution No. R-301663 on July 18, 2006.

On November 15, 2006 the City Heights PAC conducted its Annual Election and meeting in accordance with the PAC Formation Procedures and PAC Bylaws. Nine vacancies were available to be filled at the Annual Election. The vacant categories included: Four (4) - Residential Tenants, Two (2) - Residential Owner Occupants, One (1) - Business Owner with a business located north of Polk Avenue, and Two (2) - Community Organization - At-Large representatives (must be residents of the Project Area).

The Redevelopment Agency staff made it a priority to ensure that all residents of the City Heights Project Area were informed of the PAC Election. Approximately 27,000 election notices and project area maps were mailed to all residential owner-occupants, property owners, tenants, businesses and community organizations. The mailing also included information about the PAC, redevelopment, and existing and proposed projects for the area.

In addition to the mailing, an article was published in the October 22, 2006 issue of the San Diego Metro Weekly. Notices (in both English and Spanish) were posted in the City Heights Library, City Heights Redevelopment and Code Enforcement Field Office, City Heights Recreation Center, Mid-City Continuing Education Center and the Mid-City Police Substation.

The results of the November 15, 2006 PAC Election are listed in Exhibit A.

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

FISCAL CONSIDERATIONS:
None. Administration of the Project Area Committee is funded through the Redevelopment Agency Annual Project Budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Council authorized a one-year extension of the PAC and directed Redevelopment Agency staff to notice and conduct an election for the City Heights Redevelopment Area PAC in 2006 by Resolution No. R-301663 on July 18, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Approximately 27,000 election notices and project area maps were mailed to all residential owner-occupants, property owners, tenants, businesses and community organizations. The notice was published in the October 22, 2006 issue of the Mid-City Journal. Notices (in both English and Spanish) were posted in the City Heights Library, City Heights Redevelopment and Code Enforcement Field Office, City Heights Park & Recreation Center, San Diego City College Continuing Education Center and the Mid-City Police Substation.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
The City Heights community.

Ostrye/Waring

Staff: Sam Johnson - (619) 533-5425
Huston Carlyle – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:41 p.m. – 9:42 p.m.)

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

ITEM-128: Appointments to the Commission for Arts & Culture.

(See memorandum from Mayor Sanders dated 11/16/2006.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-593) ADOPTED AS RESOLUTION R-302182

Council confirmation of the following appointments by the Mayor of the City of San Diego, to serve as members of the Commission on Arts and Culture, for terms ending as indicated:

NAME	**TERM ENDING**
Lewis F. Klein (Golden Hill, District 8) (Replacing Jeffery Dunigan, whose term expired)	August 31, 2007
Odelia "Dea" R. Hurston (Hillcrest, District 3) (Replacing Dorothy Annette, whose term expired)	August 31, 2008

Robert H. Gleason August 31, 2008
(Kensington, District 3)
(Replacing Calvin Woo, whose term expired)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:40 a.m.)

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

* ITEM-129: Richard Lawrence Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-601) ADOPTED AS RESOLUTION R-302183

Recognizing Richard Lawrence for a lifelong commitment to a ministry of interracial and economic justice, and joining with his friends and family in wishing Richard joy and laughter on his 70th birthday;

Proclaiming Friday, November 10, 2006, to be "Richard Lawrence Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-130: Jim LoBue Day.

COUNCILMEMBER ATKINS', COUNCILMEMBER MADAFFER'S, AND COUNCILMEMBER HUESO'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-602) ADOPTED AS RESOLUTION R-302221

Recognizing Jim LoBue and commending him for his contributions to the City of San Diego;

Proclaiming December 5, 2006, to be "Jim LoBue Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:44 p.m. – 9:45 p.m.)

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

* ITEM-131: YMCA Childcare Resource Service Day.

COUNCILMEMBER MAIENSCHEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-554) ADOPTED AS RESOLUTION R-302184

Proclaiming November 17, 2006, as "YMCA Childcare Resource Service Day" in the City of San Diego in honor of their many contributions and service to the families of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-132: Results of the November 7, 2006 Special Municipal Election.

CITY CLERK'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-) ADOPTED AS RESOLUTION R-302222

Declaring the results of the Special Municipal Election held in the City of San Diego on November 7, 2006.

City Clerk Elizabeth Maland announced and certified the results for the Special Municipal Election held on Tuesday, November 7, 2006 as follows:

Proposition B: Amends the City Charter to change the approval process for increases in City Employees' Retirement System Benefits. Shall the Charter be amended to require voter approval for any increases in retirement system benefits for public employees?

For said proposition the vote was	214,788	69.94%
Against said proposition the vote was	92,302	30.06%
The Total Vote Was:	307,090	100.00%

Proposition C: Amends the City Charter to allow for contracting out of City services. Shall the Charter be amended to allow the City to contract services traditionally performed by City Civil Service employees if determined to be more

economical and efficient while maintaining the quality of services and protecting the public interest?

For said proposition the vote was	185,688	60.37%
Against said proposition the vote was	121,906	39.63%
The Total Vote Was	307,594	100.00%

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:31 p.m. – 4:32 p.m.)

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

ITEM-133: Conflict of Interest Code for the Office of Ethics and Integrity.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-502) ADOPTED AS RESOLUTION R-302223

Adopting a Conflict of Interest Code for the Office of Ethics and Integrity.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554, adopted on June 20, 2006. The Office of Ethics and Integrity, Citizens Review Board and Human Relations Commission codes have been revised to include new positions which had not been previously designated, remove positions previously designated but now more appropriately included in other City's department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

SawyerKnoll/Fulkerson/Walker

Staff: Music McCall - (619) 236-6082
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:15 p.m. – 9:17 p.m.)

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

* ITEM-134: Conflict of Interest Code for Neighborhood Code Compliance/Housing Advisory and Appeals Board.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-515) ADOPTED AS RESOLUTION R-302185

Adopting the revised Conflict of Interest Code for the Housing Advisory and Appeals Board.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No.

R-301554 adopted on June 20, 2006. The Neighborhood Code Compliance/Housing Advisory and Appeals Board code has been revised to: Include new positions which had not been previously designate and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Carr

Staff: Pamela Jordan - (619) 236-5517
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-135: Conflict of Interest Code for San Diego City Employee's Retirement System.

SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-494) ADOPTED AS RESOLUTION R-302186

Adopting the revised Conflict of Interest Code for San Diego City Employee's Retirement System.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The San Diego City Employees' Retirement System code has been revised to: include newly created positions and positions that were not previously designated, remove positions previously designated that no longer exist or for which the duties have now changed, and to specify the required filing categories for each designated position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Wescoe

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-136: Conflict of Interest Code for Funds Commission.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-514) ADOPTED AS RESOLUTION R-302187

Adopting the revised Conflict of Interest Code for Funds Commission.

STAFF SUPPORTING INFORMATION:

This update is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. Funds Commission code has been updated to include filing responsibilities of the Commission and their consultants subject to the conflict of interest code, and confirmed the required filing categories for each designated position including consultants.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Greenwich

Staff: Pablo Lutes - (619) 533-6483
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-137: Conflict of Interest Code for San Diego Convention Center Corporation.

SAN DIEGO CONVENTION CENTER CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-516) ADOPTED AS RESOLUTION R-302188

Adopting the revised Conflict of Interest Code for the San Diego Convention Center Corporation.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The San Diego Convention Center Corporation's code has been revised to: (1) Revise the title of the existing position of "Vice President - Convention Center Director" to "Vice President - General Manager" and (2) Remove the jurisdiction of the San Diego Concourse.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Wallace

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-138: Conflict of Interest Code for the San Diego Data Processing Corporation (SDDPC).

SAN DIEGO DATA PROCESSING CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-517) ADOPTED AS RESOLUTION R-302189

Adopting the revised Conflict of Interest Code for the San Diego Data Processing Corporation.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The San Diego Data Processing Corporation (SDDPC) code has been revised to: include new positions that must be designated, revise disclosure categories, revise the titles of existing positions, delete titles of positions that do not exist and incorporate 2 Cal. Code of Regulations 18730 as the provisions of the Code.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Fleming

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-139: Conflict of Interest Code for Centre City Development Corporation.

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-510) ADOPTED AS RESOLUTION R-302190

Adopting the revised Conflict of Interest Code for the Centre City Development Corporation.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-30l554 adopted on June 20, 2006. The Centre City Development Corporation Code has been revised to:

1. Include the following positions not previously designated: Communications Director, all Engineers, additional accounting positions, the Equal Opportunity Administrator, the Downtown Information Center Manager and the Human Resources Manager.

2. Updated the required filing categories for each of the positions previously designated to address concerns about the scope of disclosure requirements contained in the previous Conflict of Interest Code ("COI Code"), as it requires all designated employee to disclose income and gifts from individuals as well as those relating to businesses and real estate. The revised COI Code also requires those designated employees who regularly work with vendors or suppliers or who enter into such contracts to disclose income and gifts from the same.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Wilk/Graham

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-140: Conflict of Interest Code for the Defined Contribution Board.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-512) ADOPTED AS RESOLUTION R-302191

Adopting the Conflict of Interest Code for the Defined Contribution Board.

STAFF SUPPORTING INFORMATION:

This is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Defined Contribution Board code is submitted: including positions, and required filing categories for each designated position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Bych

Staff: Nancy Stadille - (619) 236-6575
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-141: Conflict of Interest Code for the Ethics Commission.

ETHICS COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-513) ADOPTED AS RESOLUTION R-302192

Adopting the revised Conflict of Interest Code for the Ethics Commission.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Ethics Commission code has been revised to: include new positions not previously designated, to update the duties of the designated positions, and to update the required filing categories for the designated positions.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Fulhorst

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-142: Conflict of Interest Code for General Services Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-489) ADOPTED AS RESOLUTION R-302193

Adopting the revised Conflict of Interest Code for the General Services Department.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring biennial review and update of local conflict of interest codes. The General Services Department code has been revised to reflect the restructuring of General Services for Fiscal Year 2007. The following position has been removed because it no longer exists in the City: Print Shop/Central Stores Deputy Director. The following positions have been removed but are now more appropriately included in other City's department's Conflict of Interest Codes: Storekeeper III, Storekeeper II, Storekeeper I, Central Stores Supervisor, and Parking Operations Program Manager.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Sierra/Haas

Staff: Lisa Celaya - (619) 525-8553
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-143: Conflict of Interest Code for the Metropolitan Wastewater Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-491) ADOPTED AS RESOLUTION R-302194

Adopting the revised Conflict of Interest Code for the Metropolitan Wastewater Department.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in the City Council Resolution No. R-301554 adopted on June 20, 2006. The Metropolitan Wastewater Department code (Appendix A) has been revised to better reflect the Designated positions of the Department. Specifically, (1) the addition of a Supervising Public Information Officer, within the Information and Organization Support Division; (2) the deletion of a Principal Contract Specialist within the Services and Contracts Division that was transferred to another City Department as a result of reorganization; (3) the deletion of the Assistant Deputy Director within the Engineering and Program Management Division, which is no longer a position in the Division; (4) the addition of a Project Officer II within the Wastewater Collections Division which reflects a transfer of the

position, formally in the Engineering and Program Management Division and (5) the addition of "Consultants" which was not previously included in Appendix A.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Ferrier/Haas

Staff: Richard Enriquez - (858) 292-6364
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-144: Conflict of Interest Code for the City Council Departments, Council Administration and Office of the Independent Budget Analyst.

(See memorandum from Council President Peters dated 9/13/2006.)

COUNCIL ADMINISTRATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-483) ADOPTED AS RESOLUTION R-302195

Adopting the revised Conflict of Interest Code for the City Council Departments, Council Administration and Office of the Independent Budget Analyst.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. On that same day, the City Council, Council Administration and Independent Budget Analyst code was revised to incorporate members of the newly created Independent Budget Analyst department which fell under none of the City's existing Conflict of Interest Codes. During that update, the required filing categories for each designated position was also updated. Subsequent to that update, it was discovered that the obligations of outside lawyers representing City Council Members in specific legal matters was inadequately addressed in the updated code. In order to clarify what is expected of these attorneys and address this kind of situation generally in the conflict code, this new limited update is proposed.

The following language, taken directly from the existing City Attorney Conflict Code, provides a model for the treatment of limited scope attorneys. The proposed update adds the following language to Appendix A of the Council/IBA Conflict Code:

> The City Council has determined the following categories of consultants are not subject to the City Council/IBA Conflict of Interest Code and shall not be required to file economic disclosure forms:
>
> - Attorneys who volunteer services to the City
> - Attorneys who provide limited duties for specific litigation or special projects
> - Expert Witnesses
> - Consultants who provide expertise in limited areas for specific litigation or special projects.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Kinsley

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-145: Conflict of Interest Code for the Office of the City Auditor and Comptroller.

CITY AUDITOR AND COMPTROLLER'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-480) ADOPTED AS RESOLUTION R-302196

Adopting the Revised Conflict of Interest Code for the Office of the City Auditor and Comptroller.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Office of the City Auditor and Comptroller code has been revised to: Revise the descriptive wording of the duties of the Department.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEYSTAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Tomanek

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-146: Conflict of Interest Code for the Office of the City Treasurer.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-495) ADOPTED AS RESOLUTION R-302197

Adopting the Revised Conflict of Interest Code for the Office of the City Treasurer.

STAFF SUPPORTING INFORMATION:

This update is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. Office of the City Treasurer code has been updated to include new positions which had not been previously designated, amended/renamed positions previously designated, clarified various position descriptions and filing responsibilities of the consultants subject to the conflict of interest code, and confirmed the required filing categories for each designated position including consultants.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEYSTAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Granewich

Staff: Pablo Lutes - (619) 533-6483
Sharon Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-147: Conflict of Interest Code for City Planning and Community Investments.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-492) ADOPTED AS RESOLUTION R-302198

Adopting and revising Conflict of Interest Code for City Planning and Community Investments.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 22, 2006. The City Planning and Community Investment code has been revised to: merge positions due to re-engineering and include new positions which had not been previously designated, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Anderson

Staff: Alex Bragado - (619) 533-6428
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-148: Conflict of Interest Code for the Office of Homeland Security.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-506) ADOPTED AS RESOLUTION R-302199

Adopting a Conflict of Interest Code for the Office of Homeland Security.

STAFF SUPPORTING INFORMATION:

This addition is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Office of Homeland Security code has been added to include positions that were moved during restructuring from Technology to Public Safety.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Olen

Staff: Donna Faller - (619) 533-6763
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-149: Conflict of Interest Code for Debt Management.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-501) ADOPTED AS RESOLUTION R-302200

Adopting a Conflict of Interest Code for Debt Management.

STAFF SUPPORTING INFORMATION:

This update is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Debt Management code has been updated to include new positions which had not been previously designated, amended/renamed positions previously

designated, clarified various position descriptions and filing responsibilities of the consultants subject to the Conflict of Interest Code, and confirmed the required filing categories for each designated position including consultants.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Kommi

Staff: Lakshmi Kommi - (619) 236-6928
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-150: Conflict of Interest Code for Customer Services Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-500) ADOPTED AS RESOLUTION R-302201

Adopting a Conflict of Interest Code for Customer Services Department.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Customer Services Department code has been created to reflect new positions which had not been previously designated as well as, positions which were previously designated in other department codes; and to create the required filing categories for each designated position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Samuels

Staff: David Bryant - (858) 581-4112
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-151: Conflict of Interest Code for Office of the City Clerk.

CITY CLERK'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-482) ADOPTED AS RESOLUTION R-302202

Adopting the Revised Conflict of Interest Code for the Office of the City Clerk.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The City Clerk's conflict of interest code has been revised to: remove positions previously designated and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Maland

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-152: Conflict of Interest Code for Community Services Division.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-499) ADOPTED AS RESOLUTION R-302224

Adopting a Conflict of Interest Code for Community Services Division.

STAFF SUPPORTING INFORMATION:

The Conflict of Interest Code for Community Services Division became a stand alone division in Fiscal Year 2007. The Conflict of Interest Code for Community and Economic Development Department of which Community Services was a division was last revised by Resolution No. R-299948 on December 7, 2004. This revision is intended to conform to Government Code 87306.5 requiring biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-293313 adopted on June 19, 2000. Community Services Division's code has been revised to include new positions which had not been previously designated, to eliminate positions no longer needed as a result of restructuring, and to update required filing categories for each position.

FISCAL CONSIDERATIONS: Not Applicable.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Previous City Council Resolution No. R-299948 adopted on December 7, 2004.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Not Applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Not Applicable.

Linares/Martinez

Staff: Diana Gray - (619) 533-3913
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:19 p.m. – 4:20 p.m.)

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

* ITEM-153: Conflict of Interest Code for Development Services Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-484) ADOPTED AS RESOLUTION R-302203

Adopting the revised Conflict of Interest Code for the Development Services Department.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Development Services code has been revised to: include new positions which had not been previously designated, remove positions previously designated but now more appropriately included in other City's department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Waring

Staff: Linda Martinez - (619) 446-5264
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-154: Conflict of Interest Code for Environmental Services Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-485) ADOPTED AS RESOLUTION R-302204

Adopting the Revised Conflict of Interest Code for the Environmental Services Department.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Environmental Services Department code has been amended to include revised disclosure categories and job titles of existing positions.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Heap

Staff: Kate Claytor - (858) 492-5082
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-155: Conflict of Interest Code for Family Justice Center Department.

FAMILY JUSTICE CENTER'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-486) ADOPTED AS RESOLUTION R-302205

Adopting the revised Conflict of Interest Code for the Family Justice Center Department.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Family Justice Center code has been revised to: remove a position previously designated (person in the position does not meet the reporting requirements of the Conflict of Interest Code), and change the working title of a position previously designated.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Strack

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

ITEM-156: Conflict of Interest Code for Financial Management Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-487) ADOPTED AS RESOLUTION R-302225

Adopting the revised Conflict of Interest Code for the Financial Management Department.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Financial Management Department Codes have been revised to include new positions which had not been previously designated, remove positions previously designated but now appropriately included in other City's department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Lewis

Staff: Martha Davis - (619) 236-7315
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:19 p.m. – 4:20 p.m.)

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

* ITEM-157: Conflict of Interest Code for the San Diego Fire-Rescue Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-488) ADOPTED AS RESOLUTION R-302206

Adopting the revised Conflict of Interest Code for the San Diego Fire-Rescue Department.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Fire-Rescue Department code has been revised to: Include new positions which had not been previously designated. Revise the title of an existing position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A.

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

Jarman

Staff: Mia Perry - (619) 533-4327
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-158: Conflict of Interest Code for the Office of the City Attorney.

(See Report from the City Attorney dated 11/1/2006.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-481) ADOPTED AS RESOLUTION R-302207

Adopting the revised Conflict of Interest Code for the Office of the City Attorney.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-159: Conflict of Interest Code for Office of Special Events.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-509) ADOPTED AS RESOLUTION R-302208

Adopting a Conflict of Interest Code for Office of Special Events.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Special Projects Department code has been revised to: rename the Department; delete previously designated positions which no longer exist in current organization structure, remove positions previously designated but now more appropriately included in other City's department's Conflict of Interest Codes and revise the description duties of Consultant position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Wormser

Staff: Carolyn Wormser - (619) 685-1332
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-160: Conflict of Interest Code for Water Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-496) ADOPTED AS RESOLUTION R-302209

Adopting the revised Conflict of Interest Code for Water Department.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Water Department code has been revised to: include new positions which had not been previously designated, remove positions previously designated but now more appropriately included in the City's department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Barrett/Haas

Staff: David Stallman - (619) 533-5315

Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-161: Conflict of Interest Code for Community and Legislative Services.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-498) ADOPTED AS RESOLUTION R-302210

Adopting a Conflict of Interest Code for Community and Legislative Services.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local Conflict of Interest Codes as reflected in City Council Resolution No. R-301554, adopted on June 20, 2006. The Community & Legislative Services code has been revised to include new positions which had not been previously designated, remove positions previously designated but now more appropriately included in other City departments' Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Michell

Staff: Sara Cavataio - (619) 236-7156
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-162: Conflict of Interest Code for the Office of the Mayor and Chief Operating Officer.

MAYOR SANDERS' AND CHIEF OPERATING OFFICER'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-490) ADOPTED AS RESOLUTION R-302211

Adopting and revising the Conflict of Interest Code for the Office of the Mayor and Chief Operating Officer.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554, adopted on June 20, 2006. The Mayor and Chief Operating Officer codes have been revised to include new positions which had not been previously designated, remove positions previously designated but now more appropriated included in other City's department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Froman

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-163: Conflict of Interest Code for Department of Finance.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-503) ADOPTED AS RESOLUTION R-302212

Adopting a Conflict of Interest Code for Department of Finance.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554, adopted on June 20, 2006. The Finance Department, Auditor and Comptroller, Debt Management Director, Financial Management Director, Treasurer, Development of Corporate Partnership Program, and Major Gifts and Philanthropy codes have been revised to include new positions which had not been previously designated, remove positions previously designated but now more appropriated included in other City Department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Goldstone

Staff: Lynne Rich - (619) 236-5941
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-164: Conflict of Interest Code for Real Estate Assets Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-493) ADOPTED AS RESOLUTION R-302213

Adopting the revised Conflict of Interest Code for Real Estate Assets Department.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Real Estate Assets Department code has been revised to include all departments now under Real Estate Assets.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Barwick/Waring

Staff: Peggy Martinez - (619) 236-6123
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-165: Conflict of Interest Code for the Commission for Arts and Culture.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-511) ADOPTED AS RESOLUTION R-302214

Adopting the revised Conflict of Interest Code for the Commission for Arts and Culture.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local Conflict of Interest Codes as reflected in City Council Resolution No.

R-301554 adopted on June 20, 2006. The Commission for Arts and Culture code has been revised to include new positions which had not been previously designated and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Hamilton

Staff: Victoria L. Hamilton - (619) 533-3055
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-166: Conflict of Interest Code for Business and Support Services.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-497) ADOPTED AS RESOLUTION R-302215

Adopting a Conflict of Interest Code for Business and Support Services.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Business and Support Services Office, Human Resources, Purchasing & Contracts, Business & Grants Administration Departments and the Office of the CIO codes have been revised to include new positions which had not been previously designated, remove positions previously designated but now more appropriately included in other City's department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Reynolds/Snapper/Fischle-Faulk/Boles/McGarvey

Staff: Debra Fischle-Faulk - (619) 533-6387
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-167: Conflict of Interest Code for Land Use Boards and Commissions.

CITY CLERK'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-518) ADOPTED AS RESOLUTION R-302216

Adopting the revised Conflict of Interest Code for Land Use Boards and Commissions.

SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-301554 adopted on June 20, 2006. The Land Use Boards and Commission's code has been revised to: add commissions which are already required to file Statement of Economic Interests.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Maland

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-168: 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-2007-48) ADOPTED AS RESOLUTION R-302217

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

FILE LOCATION: GEN'L –State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

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

* ITEM-169: 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-2007-77) ADOPTED AS RESOLUTION R-302218

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: 10:33 a.m. - 10:37 a.m.)

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

ITEM-330: Amending the San Diego Municipal Code to Implement Voter Approval of Retirement System Benefit Increases.

MAYOR SANDERS' RECOMMENDATION:

Take the following action:

(O-2007-58) INTRODUCED, TO BE ADOPTED ON JANUARY 9, 2007

Amending the San Diego Municipal Code to add provisions to implement Charter Section 143.1 regarding voter approval of Retirement System Benefit increases;

Directing the City Attorney to prepare the appropriate ordinance in accordance with Charter Section 40.

SUPPORTING INFORMATION:

On March 24, 2006, the City Council approved placing two measures on the November 7, 2006 ballot. Those measures were eventually designated Propositions B and C. At the time that Council approved the ballot language, staff was directed to begin working on the ordinances which would implement the measures should they pass and become part of the City Charter. The first draft of the ordinance which would implement Prop B was brought to the Rules Committee on July 24, 2006, and staff began negotiating the details of that ordinance with all five of the City's labor unions on July 25, 2006. Voters overwhelming passed Proposition B on November 7, 2006.

Proposition B requires that any future increases in retirement system benefits be approved by a majority vote of the electorate. The implementation ordinance for this measure details the following:

- Those retirement system benefits which would be subject to a vote if an increase is proposed;
- Those benefits that are not considered "retirement system benefits" and, therefore, not subject to a veto;
- Timing and process for voter approval of negotiated retirement system benefits;
- Confirms that the City bears the cost of placing the measure on the ballot.

The City's negotiating team has been engaging in coalition bargaining with the POA, MEA, AFSCME Local 127 and Fire Local 145 since July 25, 2006 (Union Coalition). Separate meetings have been held with the Deputy City Attorney's Association. Through that process, a number of changes have been made to the initial draft ordinance which was presented in July.

The City presented its last, best and final offer to the Union Coalition and the DCAA on November 21, 2006. One additional meeting is scheduled with the Union Coalition on Friday, December 1, 2006.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 8:55 p.m. – 8:55 p.m.)

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

ITEM-331: Amending the San Diego Municipal Code to Add Policies and Procedures to Implement Use of Managed Competition.

MAYOR SANDERS' RECOMMENDATION:

Introduce the following ordinance:

(O-2007-57 Cor. Copy) INTRODUCED, TO BE ADOPTED ON JANUARY 9, 2007

Introduction of an Ordinance amending Chapter 2, Article 2, of the San Diego Municipal Code by adding Division 37, titled "Managed Competition," relating to the City's use of a managed competition process to determine the most economic and efficient means of providing City services.

SUPPORTING INFORMATION:

On March 24, 2006, the City Council approved placing two measures on the November 7, 2006 ballot. Those measures were eventually designated Propositions B and C. At the time that

Council approved the ballot language, staff was directed to begin working on the ordinances which would implement the measures should they pass and become part of the City Charter. Specific to Prop. C, the managed competition measure, Council requested that the implementation ordinance address minimum contract standards.

The first draft of the ordinance which would implement Prop. C was brought to the Rules Committee on July 24, 2006, and staff began negotiating the details of that ordinance with four of the five City labor unions on July 25, 2006. This Union Coalition consisted of POA, MEA, AFSCME Local 127 and Fire Local 145. Voters overwhelming passed Proposition C on November 7, 2006.

Prop. C amended Section 117(c) of the City Charter to allow the City to employ an independent contractor when it is determined that services can be provided more economically and efficiently by an independent contractor than by a persons employed in the Classified Service while maintaining service quality and protecting the public interest. The implementation ordinance for this measure details the following:

- Establish parameters for a pre-competition assessment;
- Detail minimum contract standards and contractor qualifications;
- Confirm that City employees will be provided with resources in order to respond as part of the managed competition process;
- Allow City employees who are successful in the managed competition process to bid for non-City services where appropriate;
- Establish the appointment process, length of service, conflict of interest, process for removal and qualifications for the Independent Review Board (IRB);
- Establish confidentiality and conflict of interest guidelines for City staff and any successful contractor;
- Process for the Mayor and Council to consider the IRB recommendation;
- Require notice to the affected Labor Organization and City employees.

The City's negotiating team has been engaging in coalition bargaining with the POA, MEA, AFSCME Local 127 and Fire Local 145 since July 25, 2006. Through that process, a number of changes have been made to the initial draft ordinance which was presented in July.

The City presented its last, best and final offer to the Union Coalition on November 21, 2006. One additional meeting is scheduled with the Union Coalition on Friday, December 1, 2006.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 8:55 p.m. – 8:55 p.m.)

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

ITEM-332: Nine actions related to appointments of Mayor and City Council Members to Outside Organizations for Calendar Year 2007.

(See Joint Memorandum from Mayor Sanders and Council President Peters dated 11/14/2006 corrected version and City Attorney dated 2/23/2006. Citywide.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-608) ADOPTED AS RESOLUTION R-302226

Declaring that Mayor Jerry Sanders shall serve as the representative to the San Diego River Conservancy and appointing to serve as representative, alternate, or liaison to the listed organizations, as indicated below, for the period commencing January 1, 2007, through December 31, 2007:

OUTSIDE ORGANIZATION	**POSITION**
Port Commission	Liaison
San Diego Association of Governments - Board of Directors	Representative
San Diego Association of Governments - Executive Committee	Representative
San Diego Association of Governments - Regional Planning Committee	Alternate
San Diego River Conservancy	Representative

Subitem-B: (R-2007-609) ADOPTED AS RESOLUTION R-302227

Appointing Council President Scott Peters jointly by the Mayor and City Council, to serve as representative, alternate, or liaison to the organizations listed below, for the period commencing January 1, 2007 through December 31, 2007:

OUTSIDE ORGANIZATION	**POSITION**
League of Cities, San Diego County Division	Representative
Los Peñasquitos Canyon Preserve Taskforce	Representative
San Diego Association of Governments - Board of Directors	Second Alternate
San Diego Association of Governments – Transportation Committee	First Alternate
San Dieguito River Valley Regional Open Space Joint Powers Authority	Representative

Subitem-C: (R-2007-610) ADOPTED AS RESOLUTION R-302228

Appointing Councilmember Kevin Faulconer jointly by the Mayor and City Council, to serve as representative, alternate, or liaison to the organizations listed below, for the period commencing January 1, 2007 through December 31, 2007:

OUTSIDE ORGANIZATION	**POSITION**
City-County Joint Homeless Taskforce	Representative
Local Agency Formation Commission	Alternate
San Diego Metropolitan Transit System Board	Representative
San Diego Association of Governments - Bayshore Bikeway Working Group	Representative
San Diego Association of Governments - Shoreline Preservation Working Group	Representative

Subitem-D: (R-2007-611 Cor. Copy) ADOPTED AS RESOLUTION R-302229

Appointing Councilmember Toni Atkins jointly by the Mayor and City Council, to serve as representative, alternate, or liaison to the organizations listed below, for the period commencing January 1, 2007 through December 31, 2007:

OUTSIDE ORGANIZATION	**POSITION**
City-County Joint Homeless Taskforce	Representative
Local Agency Formation Commission	Representative
San Diego Metropolitan Transit System - Executive Committee	Representative
San Diego Association of Governments - Board of Directors	Representative
San Diego Association of Governments - Executive Committee	Second Alternate
San Diego Association of Governments - Housing Working Group	Representative
San Diego Association of Governments - Regional Planning Committee	Representative

Subitem-E: (R-2007-612 Cor. Copy) ADOPTED AS RESOLUTION R-302230

Appointing Council President Pro Tem Tony Young jointly by the Mayor and City Council, to serve as Council representative, alternate, or liaison to the organizations listed below, for the period commencing January 1, 2007, through December 31, 2007:

OUTSIDE ORGANIZATION	**POSITION**
Abandoned Vehicle Abatement Service Authority	Representative
San Diego Metropolitan Transit System Board	Representative
City-County Reinvestment Task Force	Representative
San Diego Association of Governments - Public Safety Committee	Representative
San Diego Workforce Partnership	Representative
San Diego Regional Airport Authority	Representative
Service Authority for Freeway Emergencies	Representative
Southeastern Economic Development Corporation	Liaison

Subitem-F: (R-2007-613) ADOPTED AS RESOLUTION R-302231

Appointing Councilmember Brian Maienschein jointly by the Mayor and City Council, to serve as representative, alternate, or liaison to the organizations listed below, for the period commencing January 1, 2007 through December 31, 2007:

OUTSIDE ORGANIZATION	**POSITION**
Los Peñasquitos Canyon Preserve Taskforce	Representative
San Diego Metropolitan Transit System Board	Representative
San Diego Metropolitan Transit System - Taxi Cab Committee	Representative
San Diego Metropolitan Transit System - Executive Committee	Alternate
San Diego Association of Governments - Borders Committee	Alternate
San Dieguito River Valley Regional Open Space Joint Powers Authority	Representative

Subitem-G: (R-2007-614) ADOPTED AS RESOLUTION R-302232

Appointing Councilmember Donna Frye jointly by the Mayor and City Council, to serve as representative, alternate, or liaison to the organizations listed below, for the period commencing January 1, 2007 through December 31, 2007:

OUTSIDE ORGANIZATION	**POSITION**
Mission Trails Regional Park	Representative
San Diego Association of Governments - Energy Working Group	Representative
San Diego River Conservancy	Representative

Subitem-H: (R-2007-615) ADOPTED AS RESOLUTION R-302233

Appointing Councilmember Jim Madaffer jointly by the Mayor and City Council, to serve as representative, alternate, or liaison to the organizations listed below, for the period commencing January 1, 2007 through December 31, 2007:

OUTSIDE ORGANIZATION	**POSITION**
Mission Trails Regional Park	Representative
San Diego Association of Governments - Board of Directors	First Alternate
San Diego Association of Governments - Executive Committee	First Alternate

San Diego Association of Governments – Transportation Committee	Representative

Subitem-I: (R-2007-616 Cor. Copy) ADOPTED AS RESOLUTION R-302234

Appointing Councilmember Ben Hueso jointly by the Mayor and City Council, to serve as representative, alternate, or liaison to the organizations listed below, for the period commencing January 1, 2007 through December 31, 2007:

OUTSIDE ORGANIZATION	**POSITION**
Abandoned Vehicle Abatement Service Authority	Representative
San Diego Metropolitan Transit System Board	Alternate
Otay River Valley Regional Park Policy Committee	Representative
San Diego Association of Governments - Borders Committee	Representative
San Diego Association of Governments - Public Safety Committee	Alternate
San Diego Association of Governments - Transportation Committee	Second Alternate
San Diego Workforce Partnership	Representative
Service Authority for Freeway Emergencies	Representative

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:03 p.m. – 2:10 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM A 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-yea.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM B TO CONFIRM THE APPOINTMENTS. Second by Young. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM C TO CONFIRM THE APPOINTMENTS. Second by Hueso. Passed by the following vote:

Peters-yea, Faulconer-recused, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM D TO CONFIRM THE APPOINTMENTS. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-recused, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM E TO CONFIRM THE APPOINTMENTS. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-recused, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM F TO CONFIRM THE APPOINTMENTS. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-recused, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM G TO CONFIRM THE APPOINTMENTS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-recused, Madaffer-yea, Hueso-yea.

MOTION BY HUESO TO ADOPT THE RESOLUTION IN SUBITEM H TO CONFIRM THE APPOINTMENTS. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-recused, Hueso-yea.

MOTION BY FAULCONER TO ADOPT THE RESOLUTION IN SUBITEM I TO CONFIRM THE APPOINTMENTS. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-recused.

ITEM-333: Mid-City Transit Gateways Project.

(City Heights Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-571) ADOPTED AS RESOLUTION R-302235

Amending the Fiscal Year 2007 Capital Improvements Program Budget for the Mid-City Transit Gateways Project (CIP-39-232.0)(Project) by increasing the budget by an amount not to exceed $585,000;

Authorizing the City Auditor and Comptroller to accept a transfer of an amount not to exceed $315,000 from the Redevelopment Agency of the City of San Diego, from Fund No. 98200 (City Heights Redevelopment tax increment funds) to CIP-39-232.0, for the completion of the Project, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed $270,000 from Fund No. 30300 (Georgia Street Bridge Project, CIP-52-555.0) to CIP-39-232.0 for the completion 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. 2 for the completion of the University Avenue Bridge Deck component of the Project, Change Order No. 3 for the completion of the El Cajon Blvd. Bridge Deck component of the Project, and any other necessary documents for the completion 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 an amount not to exceed $585,000 (transferred to CIP-39-232.0) for the completion 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;

Declaring the present action is exempt from the provisions of CEQA, pursuant to CEQA Guidelines Section 15303.

STAFF SUPPORTING INFORMATION:

The Mid-City Transit Gateways Project (Project) was originally funded by a Federal TEA21 enhancement grant of $4,255,000 and a City TransNet match of $534,000. Phase 1 of the Project, which has been completed, added landscape improvements to the medians on El Cajon Blvd., between I-15 and 43rd Street. Phase 2 of the Project, which has also been completed, enhanced the freeway bridge decks over I-15 at El Cajon Blvd. and University Ave. with transit shelters, pedestrian amenities, and community identification signage.

Phase 2 currently has a funding shortfall of approximately $585,000, resulting from unanticipated costs due to unforeseen conditions related to utility connections, electrical redesign, underground excavations, and time-consuming investigations owing to plan discrepancies. Of the $585,000, approximately $502,000 is in contractor costs, while approximately $83,000 is in additional City staff costs.

FISCAL CONSIDERATIONS:
This action approves a total transfer of up to $585,000 to the Mid-City Transit Gateways Project (CIP-39-232.0) for the completion of the Project. Up to $315,000 will be transferred from Fund No. 98200 (City Heights Redevelopment tax increment funds), with the intention to reimburse Fund No. 98200 with future available funds. In addition, up to $270,000 will be transferred from Fund No. 30300 (Georgia Street Bridge Project, CIP-52-555.0), with the intention to reimburse Fund No. 30300 with CALTRANS and SANDAG funds. The requested fund transfers will enable the Project to be closed.

Further, City staff will be working with the City Attorney's Office to determine whether pursuing legal action against the consultant for the design discrepancies noted during construction is warranted. If such action is warranted, proceeds resulting from any such action will be used to contribute toward this repayment plan.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
On January 13, 2004, the City Council adopted Resolution No. R-298750, authorizing the award and expenditure of funds for the construction of Phase 2 of the Project.

On May 4, 2004, the City Council adopted Resolution No. R-299168, authorizing the transfer of $200,000 in Redevelopment tax increment funds from the City Heights Redevelopment Project Area to cover the unanticipated escalation of Project material costs (concrete and steel) immediately prior to the bid opening. The $200,000 transfer was needed to award the construction contract.

On March 7, 2006, the City Council adopted Resolution No. R-301287, authorizing the transfer of an additional $100,000 in Redevelopment tax increment funds from the City Heights Redevelopment Project Area to cover unforeseen site conditions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
None in the present action. City staff was unable to bring this item before the PAC advisory board due to time constraints in place for meeting the last Redevelopment Agency meeting for the year. However, on January 4, 2006, City staff presented an update on the bridge deck projects and the previous fund transfer request of $100,000 to the City Heights Community Planning Group. In addition, on January 9, 2006, City staff presented the same information to the City Heights Project Area Committee, who supported the transfer of the $100,000 to the Project. Supporters included the City Heights Business Association and El Cajon Blvd. Business Improvement Association.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Key stakeholders include the Mid-City business community and residents who travel over the bridge decks or use public transportation on a daily basis.

Anderson/Waring

Aud. Cert. 2700379.

Staff: Scott Kessler - (619) 533-4234
Michael D. Nemeyer - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of December 5, 2006, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:28 p.m. – 9:32 p.m.)

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

ITEM-334: **NOTE:** This item has been pulled from the docket.

ITEM-335: Certification of Mitigated Negative Declaration for 30th St. Phase II/26th St. Transmission Line Undergrounding Project.

(See Report to the City Council No. 06-188. Greater Golden Hill, South Park, and Sherman Heights Community Areas. Districts 3 and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-620) ADOPTED AS RESOLUTION R-302236

Stating the Mitigated Negative Declaration, Project No. 113310, dated October 16, 2006 (MND), which is on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) (Cal. Pub. Resources C. Section 21000 et seq.), as amended, and the State Guidelines thereto (Cal. Code of Regs., Tit. 14, Ch. 3), that the MND reflects the independent judgment of the City of San Diego as Lead Agency, and that the information in the MND, together with any comments received during the public review process, has been reviewed and considered by this Council prior to approving the project, and that the mitigation, monitoring and reporting program concerning this activity is adopted;

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

Directing the City Clerk to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the above projects.

STAFF SUPPORTING INFORMATION:

In May 2002, the City Council allocated funds to continue the undergrounding of the 138 kV transmission overhead line along the 30th Street/Fern corridor from Maple Court to "A" Street. The following year, the City Council allocated funds to underground the 26th Street section of the

same 138 kV line that runs on 30th/Fern Streets. Subsequent Council actions created the Underground Utility Districts and certification of appropriate environmental review documents.

Sometime in the Spring/Summer of 2004, during the design phase of the project, SDG&E made the City aware that due to multiple conflicts on the 30th Street/Fern corridor, SDG&E would need to explore parallel alternative routes, and over the last two years, City staff and SDG&E have been exploring options. Three presentations with three alternative routes have been presented to the Greater Golden Hill Community Planning Committee. The route most desired and contemplated in this Mitigated Negative Declaration is able to keep the underground alignment most closely to the alignment of the existing overhead lines.

Because the alignment of the underground transmission line will not entirely match the alignment contemplated by previous environmental reviews, a new environmental review was performed which contemplates the proposed alignment.

Prior to commencement of construction, SDG&E will file an Advice Letter with the California Public Utility Commission (CPUC). SDG&E will include a copy of the City Council certified environmental determination/documents. All property owners and residents who own property or reside within 300 ft. of the proposed undergrounding alignment will be notified in writing of SDG&E's filing with the CPUC and be given the opportunity to express any concerns they may have directly to the CPUC.

FISCAL CONSIDERATIONS: None with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
1. City Council Resolution R-296566, May 28, 2002 - for FY 2003 Annual Allocation of Undergrounding Projects.
2. City Council Resolution R-297711, April 7, 2003 - creating the 30th Street Phase II Underground Utility District.
3. City Council Resolution R-298586, November 17, 2003 - for FY 2004 Annual Allocation of Undergrounding Projects.
4. City Council Resolution R-298829, March 9, 2004 - creating the Residential Project 8F Underground Utility District and includes the 26th Street transmission line.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
November 10, 2004, October 12, 2005, and October 11, 2006, City staff and SDG&E staff presented the project and a proposed alternate route at the Greater Golden Hill Community Planning Committee (GGHCPC).

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
1. Albert Einstein Academy, an elementary charter school located at 30th St. and A.
2. Hal Tyvol, a resident on 29th Street and a member of CAUSE.

Oskoui/Haas/Boekamp

Staff: Afshin Oskoui - (619) 533-3102
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:35 p.m. – 9:40 p.m.)

MOTION BY ATKINS TO ADOPT TO CERTIFY THE MITIGATED NEGATIVE DECLARATION. 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-336: Auburn Tentative Map.

Matter of the appeal by Mirek Knopp of the decision of the Planning Commission in approving an application for a Tentative Map to convert twelve (12) existing residential units to condominiums and a request to waive the requirement to underground the existing overhead utilities on a 0.72-acre site, in the RS-1-7 zone of the Central Urbanized Planned District, in the City Heights neighborhood of the Mid-City Communities Planning area, located at 5014 Auburn Drive, at the intersection of Auburn Drive and Ontario.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the City and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Profession Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(Tentative Map No. 306904/Project No. 94780. Mid-City Communities Plan Area. District 7.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2007-000) GRANTED APPEAL/GRANTED MAP WITH DIRECTION ADOPTED AS RESOLUTION R-302237

Grant the appeal and approve the Tentative Map No. 306904, including the request to waive the requirement to underground existing overhead utilities;

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

STAFF SUPPORTING INFORMATION:

Granting the appeal would allow the applicant to process their Final Map and convert the 12 existing apartment units to condominiums.

Planning Commission Decision:
The Planning Commission heard the project on September 14, 2006. Commissioner Griswold made a motion to deny the project, citing that Finding No. Two could not be made (Attachment 1). The motion was seconded by Commissioner Naslund and the motion passed by a vote of 7-0-0.

Basis for Planning Commission's Denial:
In denying the project, the Planning Commission cited concerns regarding the overall condition of the building and the amount of landscaping proposed. Several commissioners expressed that they felt the entire site should be razed and redeveloped. The motion to deny cited the Commission's inability to make Finding No. Two, which states that "The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources."

Basis for Appeal:
The applicant's appeal form indicates the project is in compliance with all applicable laws and should be approved.

Staff's Response:
Staff concurs with the applicant's appeal request. The project as proposed complies with all applicable Municipal Code and Subdivision Map Act regulations. The Tentative Map request primarily represents a change in the ownership form, from a single property owner to individual unit ownership. The motion to deny cited the Planning Commission's inability to make Finding No. Two. Staff believes that the intent of this required finding is to ensure that adequate public facilities are available when new housing units are provided, especially in outlying or suburban areas where there may not be existing facilities. In this instance, the existing housing units proposed for condominium conversion are located in a developed, urban area and there is no net loss or gain of housing units. The subject project does not include any physical changes to the environment or any intensification of use.

Please note this project is not subject to the condominium conversion ordinance that was passed by the City Council on June 13, 2006.

Projects such as this that had a valid appeal of the environmental exemption determination pending at the time of the ordinance adoption were specifically excluded from the new ordinance. On July 31, 2006, the City Council denied the environmental appeal for this project. Therefore, the project is not required to provide a Building Conditions Report, additional landscaping or parking, as required by the new ordinance.

Although not required to, the applicant did provide the Planning Commission with a Building Conditions Report and a concept landscape plan for this project. In response to the concerns raised by the Planning Commission, the applicant has enhanced their landscape and building elevation renderings. In addition, the applicant has created a complete list of the proposed site and building improvements, including a cost estimate. The proposed improvements include new roofing, plumbing, electrical, insulation, windows, doors, drywall, stucco, flooring, kitchens, bathrooms and appliances. These improvements are not code requirements but have been provided in response to the Planning Commission's concerns.

FISCAL CONSIDERATIONS:
There is no fiscal impact. The project includes a deposit account paid for by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
On June 5, 2006, the City Heights Community Planning Committee voted 10-6-2 to approve this project with recommendations, as detailed in the Planning Commission report.

KEY STAKEHOLDERS:
Steven Whitehead, Owner, Mirek Knopp, Owner's Representative and Sterling Land Services, Incorporated, Engineer.

Waring/Escobar-Eck/PG

NOTE: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15301 on February 10, 2006.

Staff: Paul Godwin – (619) 446-5103

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

Testimony in favor by Robert Hamm.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:01 p.m. – 9:17 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION, AND TO DIRECT STAFF AT THE REQUEST OF COUNCIL MEMBER FRYE TO EXCLUDE ICEPLANT IN THE LANDSCAPING OF THIS PROJECT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-337: Three actions related to the Torrey Highlands FY 2007 Public Facilities Financing Plan and Facilities Benefit Assessment.

(See Report to the City Council No. 06-133 Rev. Torrey Highlands Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2007. Torrey Highlands Community Area. District 1.)

(First Public Hearing was held on November 14, 2006, Item 330.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2007-357) ADOPTED AS RESOLUTION R-302238

Authorizing the City Auditor and Comptroller to modify the individual CIP program project budgets to conform with the adopted Torrey Highlands Public Facilities Financing Plan and Facilities Benefit Assessments.

Subitem-B: (R-2007-320) ADOPTED AS RESOLUTION R-302239

Designating an area of benefit in Torrey Highlands and the boundaries thereof, confirming the description of Public Facilities Project, the Community Financing Plan and Capital Improvement Program with respect to Public Facilities projects, the method for apportioning the costs of the Public Facilities Projects among the parcels within the area of benefit and the amount of the Facilities Benefit Assessments charged to each such parcel, the basis and methodology for assessing and levying discretionary automatic annual increases in Facilities Benefit assessments, and proceedings thereto, and ordering of proposed Public Facilities Project in the matter of one Facilities Benefit Assessment Area.

Subitem-C: (R-2007-321) ADOPTED AS RESOLUTION R-302240

Approving the Development Impact Fee schedule for properties within Torrey Highlands.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On September 27, 2006, LU&H voted 4-0 to approve the Staff's recommendation. (Councilmembers Faulconer, Atkins, Madaffer, and Hueso voted yea.)

SUPPORTING INFORMATION:

The Public Facilities Financing Plan details the public facilities that will be needed through the ultimate development of Torrey Highlands. Torrey Highlands is an area in the later stages of development where significant infrastructure construction has occurred. This plan revises and updates the Fiscal Year 2004 Plan (R-299346 dated June 15, 2004). The objective of the FBA is to insure that funds will be available in sufficient amounts to provide community facilities when needed. The FBA will be collected at the time of building permit issuance and deposited into a special interest earning fund for Torrey Highlands.

The Public Facilities Financing Plan includes a proposed change to the Torrey Highlands Transportation Phasing Plan (TPP), which limits development in the planning area until certain

improvements are assured. A traffic study was conducted and shows that in the near future most transportation facilities in the North City Future Urbanizing Area would operate at an acceptable level of service. The proposed update to the Torrey Highlands TPP would reduce the impact of regional transportation facilities on the private development project schedules.

The proposed Public Facilities Financing Plan and Facilities Benefit Assessment identify significant cost increases to the remaining projects to be funded by the FBA. In addition to these cost increases, the planned non-residential acreage has decreased in Torrey Highlands. The cost increases along with the reduction in non-residential acreage necessitate a revision in the rate of the assessment resulting in an increase of 32%.

Should the City Council not approve the proposed Torrey Highlands Public Facilities Financing Plan, Fiscal Year 2007, then the existing fees would remain in place and new development would not be contributing its proportional share for new facilities identified in the Torrey Highlands (Subarea IV) Plan. Alternative funding sources would have to be identified to fund the share of the identified facilities attributable to new development.

The proposed assessments for Fiscal Year 2007 are as follows:

LAND USE	CURRENT ASSESSMENT	PROPOSED ASSESSMENT per UNIT/ACRE in FY 2007
SINGLE-FAMILY UNIT	$64,995	$85,793
MULTI-FAMILY UNIT	$45,498	$60,057
LOCAL MIXED USE ACRE	$524,508	$692,350
COMMERCIAL ACRE	$391,919	$517,332
LIMITED COMMERCIAL ACRE	$116,341	$153,569
EMPLOYMENT CENTER ACRE	$349,587	$461,454
INSTITUTIONAL ACRE	$97,492	$128,690

FISCAL CONSIDERATION:
Adoption of this revised Public Facilities Financing Plan will continue to provide a funding source for the public facilities identified in the Torrey Highlands (Subarea IV) Plan.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:
On September 27, 2006 the Land Use & Housing Committee voted 4-0 to support the update of the draft FY 2007 Torrey Highlands Public Facilities Financing Plan and Facilities Benefit Assessment, with errata. The draft Plan, dated October 10, 2006 incorporates project changes which further define assurances required by the Transportation Phasing Plan and provides additional financing for desired community facilities.

The Plan was docketed to be heard by Council on October 10, 2006, but was returned to the Mayor to be revised and re-docketed on October 24, 2006. The item is required to be re-noticed due to a change in the required assessments.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
On September 12, 2006, the Carmel Valley Community Planning Board considered the Torrey Highlands Public Facilities Financing Plan for Fiscal Year 2007 and the proposed Transportation Phasing Plan. The Board supported the project with a vote of 10-0, with one recused.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
All property owners with remaining new development are listed on the Torrey Highlands Facilities Benefit Assessment Listing, starting on page 145 of the Plan and will have received notice and a copy of the Plan in the mail. These property owners will have liens placed on their property and will be required to pay Facility Benefit Assessments upon any building permit issuance when developing their property. Any redevelopment, which increases the intensity of existing uses, may be subject to an impact fee per Attachment 2.

Waring/Anderson/FVJ

Staff: Frank January – (619) 533-3699
David E. Miller - Deputy City Attorney

FILE LOCATION: STRT-FB-18 (33)

COUNCIL ACTION: (Time duration: 4:20 p.m. – 4:20 p.m.)

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

ITEM-338: Two actions related to 2005-2010 General Plan Housing Element.

(See Report to the City Council No. 06-182 and City of San Diego General Plan Housing Element FY 2005-2010 Draft. Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-592) ADOPTED AS RESOLUTION R-302241

Certifying that the Addendum to Environmental Impact Report No. 40-1027, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the adoption of the Draft 2005-2010 General Plan Housing Element;

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.

Subitem-B: (R-2007-591) ADOPTED AS RESOLUTION R-302242

Adopting the Draft 2005-2010 City of San Diego General Plan Housing Element;

Determining that the adopted 2005-2010 City of San Diego General Plan Housing Element identifies and analyzes existing and projected housing needs, that it establishes goals, policies, quantified objectives, financial resources and scheduled programs for the preservation, improvement and development of housing;

Finding that the Housing Element adequately includes a five-year action program that: identifies adequate sites to meet housing needs; addresses the conservation of existing housing, including affordable and assisted housing; addresses and, where appropriate and legally possible, removes governmental constraints to the maintenance, improvement and development of housing for all income levels, including housing for persons with disabilities; is consistent with the other elements of the City's general plan; provides housing opportunities without discrimination; and provides for numerous forms of housing, including

multifamily rental housing, housing for agricultural workers, and emergency and transitional housing opportunities for the homeless.

STAFF SUPPORTING INFORMATION:

California Government Code Section 65580-65589.8 requires California jurisdictions to prepare a Housing Element every five years on a schedule to be set by the state Housing and Community Development Department (HCD) and the San Diego Association of Governments (SANDAG). This Housing Element covers the period from July 1, 2005 to June 30, 2010.

The Housing Element is required by state law to include policies and quantifiable programs to ensure provision of sufficient housing for all segments of the population and all income groups during the five year planning period, maintain the safety and livability of the housing stock, minimize governmental constraints to developing housing, provide affordable housing opportunities for low-income renters and low-and-moderate income homebuyers and to comply with all applicable local, state and federal laws and regulations.

The Housing Element is required to include an Adequate Sites Inventory of sites zoned to permit residential development that is sufficient to accommodate the number of housing units that are assigned to the City by HCD and SANDAG during the seven and a half year period from January 1, 2003 to June 30, 2010. The City of San Diego was assigned to accommodate 45,741 units during this period. This is approximately 42.6 percent of the San Diego region's overall seven and a half year production goal of 107,301 units. The City's goal has been further broken out to include 8,645 moderate-income units, 8,090 low-income units and 10,645 very low-income units.

The City's Adequate Sites Inventory, which includes both vacant sites and already developed sites which have potential to redevelop at higher densities, shows that San Diego has land available for approximately 122,000 additional housing units without need for any zoning or plan changes. Of these potential units, approximately 56,000 could accommodate low- and very low-income people. Therefore, the City will not be required to rezone land for residential use prior to 2010.

The Housing Element includes a community profile which describes demographic conditions in the City, a list and description of governmental and non governmental constraints to housing development, and an analysis of how the City performed in achieving the goals and objectives of the previous Housing Element which covered the period from 1999-2004. All these components of the Housing Element are required by state law. Many constraints to housing development are not considered negative and do not need to be addressed with a program in this document.

Certification of the Housing Element by HCD is required before the Housing Element can be considered fully in compliance with state law. This certification is also required for the City to be able to compete for state and SANDAG administered grant programs which require an adopted Housing Element as a condition of application.

FISCAL CONSIDERATIONS:
The Housing Element will not have any direct fiscal impact. Preparation of the document is an unfunded state mandate that required approximately one full time staff position for a period of two years. Additional City resources will be necessary to implement some of the recommended goals, policies and programs in the Housing Element.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Neither the Council nor any Council Committee has taken previous action on this item. Various housing programs addressed in the draft Housing Element including, condominium conversions, density bonus and companion units, have been considered independently by City Council or a Council Committee.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:
Direction on future housing policy was provided by a Council-appointed Affordable Housing Task Force in 2003. A Housing Element Working Group was set up in 2004 to provide additional input on the Housing Element. Several discussions of this document were held at the Community Planners Committee (CPC). On August 22, 2006, they voted 22-4 against adopting the document. Workshops were held to discuss this document by the Housing Commission and the Planning Commission. On September 7, 2006, the Planning Commission held a hearing on the Housing Element which was continued to November 2, 2006. On November 2, 2006, the Planning Commission voted 7-0 to recommend adoption of the 2005-2010 Housing Element with minor modifications that are included in the draft Housing Element being considered by Council.

KEY STAKEHOLDERS and PROJECTED IMPACTS:
Home builders, housing developers, land owners and all residents of San Diego who own, rent or are seeking housing are stakeholders potentially impacted by policies recommended in this document. However, no specific changes in land use designation or zoning are proposed and any suggested policy changes would require changes to the Municipal Code. Additional public input including, noticing, workshops and hearings, and preparation of resolutions and/or ordinances would be required before significant changes from currently adopted City policies on housing issues could be enacted.

Anderson/Waring

Staff: Bill Levin - (619) 235-5214
Alex W. Sachs - Deputy City Attorney

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

FILE LOCATION: LAND-Progress Guide and General Plan-2005-2010 General Plan Housing Element (09)

COUNCIL ACTION: (Time duration: 2:11 p.m. – 4:30 p.m.)

Motion by Frye to continue this item for further review. Second by Maienschein. Failed by the following vote: Peters-nay, Faulconer-nay, Atkins-nay, Young-yea, Maienschein-not present, Frye-yea, Madaffer-nay, Hueso-nay.

MOTION BY ATKINS TO ADOPT THE RESOLUTIONS IN SUBITEM A AND B, AND TO DIRECT THE CITY ATTORNEY TO PROVIDE AN ANALYSIS TO THE STATE. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-S500: Wightman Street Neighborhood Park Request for Grant Amendment and Request for Special Park Fees.

(City Heights/Mid-City Community Area. District 7.)

(Continued from the meeting of November 27, 2006, Item 201, at the request of Councilmember Madaffer, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-524) RETURNED TO MAYOR

Authorizing the Mayor, or his representative, to request approval from the State of California Department of Parks and Recreation to amend the project location in grant contract number UP-37-002 to 5024 Wightman Street (Project) and request for Special Park Fees;

Amending the Fiscal Year 2007 Capital Improvement Program Budget by adding CIP-29-925.0, Wightman Street Neighborhood Park;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed $2,363,000 from CIP-29-596.0, Fox Canyon Park Acquisition and Development, to CIP-29-925.0, Wightman Street Neighborhood Park Acquisition and Development, pending receipt of State of California approval for the project location at Wightman Street;

Authorizing the expenditure of an amount not to exceed $2,363,000 from CIP-29-596.0, Fox Canyon Park Acquisition and Development, solely and exclusively, for the purpose of providing funds for Wightman Street Neighborhood Park Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to de-appropriate $686,000 from CIP-29-596.0, Fox Canyon Neighborhood Park, to be returned to Special Park Fee, Fund No. 39094;

Authorizing the appropriation and expenditure of an amount not to exceed $686,000 from Special Park Fee, Fund No. 39094 to CIP-29-925.0, solely and exclusively, for the purpose of providing funds for Wightman Street Neighborhood Park Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

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

Declaring this activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3).

STAFF SUPPORTING INFORMATION:

A State Park grant in the amount of $2,363,000 was awarded to the City of San Diego for the construction of Fox Canyon Park in the City Heights Neighborhood. At the time of the Grant application, the City was in favorable negotiations with the owner of the proposed Fox Canyon Park parcel. In order to meet the grant deadline for completion of the Environmental Document

within one year of the award, the City proceeded with a Site Development Permit and Mitigated Negative Declaration (MND) for the site, with the owners' knowledge and support. Subsequent to the approval of the permit and certification of the MND, the owner and the City were unable to reach agreement on the purchase price. The grant requires a willing seller; however, the City could not justify the sellers' requested price, based upon a recent appraisal, which was significantly lower. The City has withdrawn its offer to purchase the property.

The City Heights area is park deficient; therefore, the City sought other properties, in the neighborhood, that might fulfill the requirements of the State Park Grant. The City acquired the Wightman Street Property (Metzger Property) through Council action on August 8, 2006. This new parcel is within 680 feet of the original Fox Canyon Park parcel, is adjacent to Auburn Creek, similar to the original parcel, and serves the same neighborhood. The Park and Recreation Department wishes to use this parcel for park development subject to approval from the State of California for a re-scope of the Fox Canyon Neighborhood Park to Wightman Street Neighborhood Park. Park Planning and Development Division must resubmit this new location to the State Department of Parks and Recreation for their approval; this funding is not guaranteed. Authorizing the transfer of funds will allow further assessment of the property.

This action does not name the park to permit flexibility in naming and changing the name in the future.

FISCAL CONSIDERATIONS:
Funding is available in CIP-29-596.0, Fox Canyon Neighborhood Park, Fund 39034, Special Park Fees, because the Fox Canyon Neighborhood Park project will no longer be completed.

Additional funding in the amount of $2,363,000 from the State Parks Urban Parks Grant, may be available, subject to approval from the State of California for a re-scope of the Fox Canyon Neighborhood Park to Wightman Street Neighborhood Park.

ENVIRONMENTAL CONSIDERATIONS:
The activity is exempt from CEQA pursuant to Section 15061(b)(3) as defined by the State CEQA Guidelines ("General Rule"). This determination is predicated on Section 15004 of the Guidelines, which provides direction to lead agencies on the appropriate timing for environmental review under the provisions of CEQA. There is no construction activity associated with this action. Any subsequent activity involving construction shall be conditioned on full compliance with CEQA.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
12/1/03 Council approved $30K Community Development Block Grant for Pre-Acquisition services (Resolution R-298643)

12/7/03 Council approved application to the State for $2,363,000 through the Urban Park Act of 2001. (Resolution R-298701)
6/21/04 Council authorized $900,000 from Mid-City Special Park Fees for acquisition and development of Fox Canyon. (Resolution R-299371)
6/13/05 Council authorized funding for the purchase of the Fox Canyon Parcel. (Resolution R-00516)
12/5/05 Planning Commission approved the Site Development Permit for Fox Canyon Park. (PC-05-358)
3/21/06 Council approved the Mitigated Negative Declaration for Fox Canyon Park. (Resolution R-301321)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
5/10/05 Fox Canyon Community Input at Pro Kids Golf with Councilman Madaffer.
6/6/05 City Heights Planning Group
6/9/05 Euclid Revitalization Committee
7/6/05 City Heights Planning Group
8/22/05 Public Notice of Draft Mitigated Negative Declaration
10/12/05 Planning Commission Hearing Officer: certified MND and approved Site Development Permit
12/1/05 Planning Commission
02/06 Ontario Rd. Task Force (three meetings)
3/21/06 City Council (appeal of the Mitigated Negative Declaration)

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
The Fox Canyon Neighborhood Association, the Chollas Creek Neighborhood Association, the Colina del Sol Recreation Council, City Heights Planning Group, Euclid Revitalization Committee, Fox Canyon Task Force

Penera/Martinez

Aud. Cert. 2700354.

Staff: April Penera - (619) 525-8265
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

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

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

ITEM-S501: Impasse Procedure.

MAYOR SANDERS' RECOMMENDATION:

Take the following action:

IMPASSE HEARING HELD

Providing an impasse procedure, if necessary, for Management and City Labor Organizations currently involved in Ballot Measure Implementation Ordinance negotiations regarding voter approval of retirement system increases and policies and procedures for implementation of Managed Competition.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:33 p.m. – 5:08 p.m.; 6:12 p.m. – 6:13 p.m.)

REPORT OUT OF CLOSED SESSION:

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

http://www.sandiego.gov/city-clerk/closedsess.shtml

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:33 a.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 9:48 p.m. in honor of the memory of:

Jack Macpherson as requested by Council Member Frye.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:47 p.m. – 9:48 p.m.)