

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, APRIL 1, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The special meeting was called to order by Council President Peters at 9:04 a.m. Council President Peters recessed the meeting to adjourn into closed session. Council President Peters reconvened the regular meeting at 10:06 a.m. with all Council Members present. The meeting was recessed by Council President Peters at 11:13 a.m. for the purpose of a break. Council President Peters reconvened the regular meeting at 11:18 a.m. with Council Member Maienschein not present.

The meeting was reconvened by Council President Peters at 2:06 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:54 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:01 p.m. with Council Member Faulconer not present. Council President Peters recessed the meeting at 5:29 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:34 p.m. with all Council Members present. Council President Peters recessed the meeting at 6:02 p.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 6:04 p.m. with all Council Members present. Council President Peters recessed the meeting at 6:10 p.m. into Closed Session in the twelfth floor conference room to discuss pending and potential litigation. Council President Peters reconvened the meeting at 6:38 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 8:48 p.m.

ATTENDANCE DURING THE MEETING:

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

FILE LOCATION:

MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

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

ITEM-10: INVOCATION

Invocation was given by Craig Pierce of Horizon Christian Fellowship.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Atkins.

FILE LOCATION: MINUTES

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on American History in schools.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:33 a.m.)

PUBLIC COMMENT-2:

Nancelle Lauffer commented on homeless people in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:36 a.m.)

PUBLIC COMMENT-3:

Pansy Hillard commented on a house permit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:39 a.m.)

PUBLIC COMMENT-4:

Michael Bell commented on leadership.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-5:

Rosalind Winstead commented on the City's Equal Opportunity Program.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:43 a.m.)

PUBLIC COMMENT-6:

Referred to Mayor: Nancy Lytle commented on a sewer repair emergency.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. - 10:46 a.m.)

PUBLIC COMMENT-7:

Phil Hart commented on auditing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. - 10:51 a.m.)

PUBLIC COMMENT-8:

Referred to Mayor: Izean Rim, Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. - 10:53 a.m.)

PUBLIC COMMENT-9:

Jarvis Ross commented on City Council.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-10:

Ted Patrick commented on a drive-by crime in his community.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-11:

Chris Christenson commented on foreclosure taskforce.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-12:

Cynthia Conger commented on cell phone antenna towers.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-13:

David Ross commented on displaced veterans.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:09 a.m. - 11:12 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council President Peters congratulated Salam Hasenin on becoming the City Clerk of Poway.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:30 a.m. - 10:30 a.m.)

COUNCIL COMMENT-2:

Council Member Young thanked Salam Hasenin for his service to the City of San Diego.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:30 a.m. - 10:31 a.m.)

COUNCIL COMMENT-3:

Council Member Frye recognized Municipal Employees Association Chair Members for achieving their goal of 290 pints of blood at the MEA Blood Drive.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:32 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None

CITY ATTORNEY COMMENT:

None.

CLOSED SESSION ITEMS:

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

**CS-1 *City of San Diego v. Vinson & Elkins*
Orange County Superior Court Case No. 06CC12932**

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

EACA Assigned: D. McGrath

In Closed Session, Executive Assistant City Attorney Don McGrath, II, and outside counsel, Bryan Vess, will brief the City Council regarding the status of this matter filed in Superior Court and seek direction regarding further settlement negotiations/court proceedings.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

**CS-2 *Citizens for Responsible Equitable Environmental Development v. City of San Diego*
San Diego Superior Court Case No. GIC 871259;**

***Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego*
San Diego Superior Court Case No. GIC 876017**

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

DCA Assigned: M. Dickenson

These matters involve California Environmental Quality Act challenges to the City Council's approvals of condominium conversions. The City Attorney will update the Mayor and the City Council on the status of litigation in Closed Session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

**CS-3 *City of San Diego v. Sunroad Enterprises et al.*
San Diego Superior Court Case No. GIC 877054**

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

DCA Assigned: C. Brock

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

**CS-4 *Friends of San Diego, Inc. v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC 874140**

Friends of San Diego, Inc. v. City of San Diego
San Diego Superior Court Case No. 37-2008-00079265-CU-WM-CTL

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

DCA Assigned: G. Spitzer

This matter involves litigation arising from the City's approval of a project at 301 University Avenue, San Diego, and the approval of the related environmental document. The City Attorney will provide a status of the litigation and discuss settlement issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

**CS-5 *Sierra Club v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC 844081**

La Jolla Beach and Tennis Club, et al. v. City of San Diego, et al
San Diego Superior Court Case No. GIC 872290

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

DCA Assigned: G. Spitzer

This matter involves litigation arising from the placement of buoys in front of the La Jolla Beach and Tennis Club. The City Attorney will provide a status of the litigation and discuss settlement issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

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

CS-6 Number of Potential Cases: Up to 50 (Voluntary Compliance Program Filing)

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

DCA Assigned: W. Chung

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

**Conference with Legal Counsel - anticipated litigation – initiation of litigation, pursuant to
California Government Code Section 54956.9(c):**

CS-7 Number of Cases: One

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

DCA Assigned: J. Serrano

Consideration of litigation against the San Diego Regional Airport Authority regarding its anticipated Final Environmental Impact Report on its master plan for expansion.
Discussion of Memorandum of Agreement with Regional Airport Authority.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

CS-8 Number of Cases: One

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

DCA Assigned: G. Spitzer

This matter involves a collections issue arising from an indemnity agreement associated with the approval of a development project.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

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

CS-9 The Heart of Kensington, Inc. v. City of San Diego

**Superior Court of the State of California, County of San Diego
Case No. 37-2008-00079254-CU-MC-CPL**

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

DCA Assigned: Glenn Spitzer

On February 5, 2008, the San Diego City Council voted to deny (3-4, Hueso not present; Frye and Maienschein dissenting) the appeal and uphold the Planning Commission's decision certifying MND No. 105244; adopting MMRP - Kensington Terrace; approving PDP No. 360181; and approving Vesting Tentative Map No. 360180.

The plaintiff's lawsuit seeks a court order to invalidate the City Council's decision to approve the Kensington Terrace Project, located at 4142, 4166, and 4178 Adams Ave. and 4708 Edgeware Road.

In closed session, the Mayor and City Council will receive a briefing on the matter and request appropriate action.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

**CS-10 *City of San Diego v. San Diego City Employees Retirement System*
San Diego Superior Court Case No. 37-2007-00081912-CU-WM-CTL**

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 1, 2008

EACA assigned: D. McGrath

In Closed Session, Executive Assistant City Attorney Don McGrath, II, will update the City Council regarding the status of this matter filed in Superior Court and seek direction regarding further court proceedings and or Open Session hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:04 a.m. - 9:06 a.m.)

Council President Peters closed the hearing.

ITEM-30: Difference Makers International Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-782) ADOPTED AS RESOLUTION R-303536

Commending Helice Bridges and Difference Makers International for making a positive difference in the lives of thousands of San Diegans;

Proclaiming April 1, 2008, to be "Difference Makers International Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:08 a.m. – 10:17 a.m.)

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

ITEM-31: Financial Literacy Month.

COUNCILMEMBER YOUNG'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-794) RETURNED TO MAYOR

Proclaiming April 2008, to be "Financial Literacy Month" and April 1, 2008 as its kick off day, in the City of San Diego.

FILE LOCATION: AGENDA

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

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

ITEM-32: Speak for Success Women's Leadership Institute Day.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-779) ADOPTED AS RESOLUTION R-303537

Proclaiming April 1, 2008, to be "Speak for Success Women's Leadership
Institute Day" in the City of San Diego, and recognizing and saluting the program
for encouraging women to thrive.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:17 a.m. – 10:23 a.m.)

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

ITEM-50: Amending the San Diego Municipal Code to Prohibit the Sale and Distribution of Novelty Lighters.

(See Fire Department's 9/12/2007 Power Point; and Report to City Council No. 07-139.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2008-58) INTRODUCED, TO BE ADOPTED
TUESDAY, APRIL 15, 2008

Introduction of an Ordinance amending the San Diego Municipal Code by amending Chapter 5, Article 4, by adding Division 9, Sections 54.0901, 54.0902, 54.0903, 54.0904, 54.0905, and 54.0906, all related to prohibiting the retail sales, retail gifts, or retail distribution of Novelty Lighters. The purpose of this ordinance is to prohibit the retail sale, retail gift, or retail distribution of novelty lighters due to their appeal to juveniles, causing a growing number of juvenile-set fires.

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

On 9/12/2007, PS&NS voted 4 to 0 to support the Mayor's proposal to introduce an ordinance banning the sale and distribution of novelty lighters, and direct the City Attorney to draft an ordinance for deliberation by the full City Council. (Councilmembers Faulconer, Young, Maienschein, and Hueso voted yea.)

SUPPORTING INFORMATION:

The U.S. Consumer Product Safety Commission (CPSC) is an independent federal regulatory agency whose primary mission is to ensure that consumer products are safe to use and will not cause injuries or death.

Under the 1994 Child Safety Protection Act, the CPSC has the authority to mandate safety standards and recall products that are considered dangerous. For example, to reduce deaths and injuries associated with children under age five who obtain and play with cigarette lighters, a mandatory safety standard was established requiring disposable and novelty lighters to be “child-resistant”, meaning 85% of the children in a controlled test group must not be able to operate the lighters. As a result, thousands of dangerous lighters have been recalled to date.

Unfortunately, there has been a significant proliferation of novelty lighters that attract and fascinate children. Some of these lighters meet CPSC standards. While the child-resistant cigarette lighter standard has been highly effective, children cannot discriminate a toy from a fire tool that looks like a toy. These lighters mimic everyday toys found in the home, encouraging children to play with these dangerous lighters. Many of these lighters have flashing lights and make sounds, which make the lighters more attractive to children. Juvenile fire setting has been identified as the fastest growing fire threat in the United States and annual statistics show that more than 300 people are killed and nearly one-billion dollars in property is destroyed by fires set by children. Over 30% of the victims from these fires are the children themselves. Accidents caused by lighters are the 2nd leading cause of death in children 14 years of age and under.

These lighters pose a serious risk and represent a major threat to public safety. Placed in the hands of children, it is a recipe for disaster. Therefore, the Mayor had directed the Fire-Rescue Department to work with the City Attorney’s Office to develop an ordinance that would control the sale of novelty lighters to ensure children are not placed in harms way.

FISCAL CONSIDERATIONS:

None to the City.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Reviewed by the PS&NS Committee on September 12, 2007. Recommendation to prepare ordinance and forward to full Council for consideration. Vote was unanimous.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The San Diego Fire-Rescue Department has joined with United States Fire Administration, State Fire Marshals, burn centers, San Diego County Fire Chiefs and the San Diego Bum Institute in a national campaign to support this effort.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Target stakeholders include all citizens of San Diego, with particular emphasis on children. It is anticipated that the adoption of this ordinance will increase public safety by reducing injuries and loss of life and property. Additional stakeholders are businesses involved in the sale and manufacture of these lighters. It is our opinion the safety benefits resulting from this ordinance far outweigh any potential to these businesses.
Jarman/Olen

FILE LOCATION: NONE

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

MOTION BY HUESO TO INTRODUCE. 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-100: First Amendment to the Agreement with Goodwin Simon Victoria Research for Research, Polling, Outreach, and Additional Services for Think Blue in Fiscal Year 2008-2009.

(See General Services Department's 2/12/2008, Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-764) ADOPTED AS RESOLUTION R-303538

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an amendment to the agreement with Goodwin Simon Victoria Research for professional services in Fiscal Years 2008-2009 regarding the City's Think Blue Program, under the terms and conditions set forth in the First Amendment;

Authorizing the expenditure of an amount not to exceed \$446,470 from General Fund No. 100, General Services, Storm Water Pollution Prevention Division, Dept. 533, solely and exclusively, to provide funds for the above First Amendment;

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 2/27/2008, NR&C voted 4 to 0 to approve and request that the Committee will see what work was completed by Goodwin Simon Victoria Research for FY 2007 at a cost of \$240,000, when this item goes before the City Council. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The Storm Water Pollution Prevention Division is responsible for implementing the City's Storm Water Municipal Storm Water Permit issued by the California Regional Water Quality Control Board, San Diego Region, Order 2007-0001. The new Permit requires the City and other committees to substantially increase education and outreach to residents, businesses and industry in an effort to achieve measurable behavior change and increase residents' awareness and knowledge regarding water pollution control and environmental protection.

In an effort to establish measurements of success and determine message receptivity and retention among City residents, the Division requires the assistance of a qualified professional consultant to conduct data gathering and analysis. The consultant would use various data gathering methods to ascertain a baseline of public knowledge of storm water issues and its perceptions of the "Think Blue campaign. In addition, the Consultant would identify key barriers to behavior change in residents and businesses and provide message strategies to overcome current behavior and help effect change. Data will be gathered via random digit dial phone surveys, intercept surveys, focus groups and anonymous observation.

In May 2006, the City advertised for research consultants via an RFP process according to AR 26.70. Goodwin Simon Victoria Research was selected as the most qualified. In Fiscal Year 2007, the City entered into an agreement not-to-exceed \$240,000, with two, one-year options to renew with Goodwin Simon Victoria Research (C-14073) to provide data gathering and analysis services for the above targeted areas and audiences.

The FY 2007 work is nearly complete (85%). This First Amendment will allow the Division to exercise the option to renew the contract and receive \$446,470 in additional consulting services in Fiscal Years 2008 through 2009, for a total amount not to exceed \$686,470.

Continued consulting services would include, but would not be limited to, quantitative and qualitative data research, identification of barriers to behavior and effectiveness measurement of outreach tool. Measurement strategies will include the use of focus groups, intercept surveys, phone surveys and other methods. The Additional Services added to this Amendment include a countywide survey and professional research/consulting on up to three Community-Based Social Marketing (CBSM) pilot projects.

This First Amendment to the Agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2702) and Non Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.35 17).

To support its Equal Opportunity Contracting commitment, the City has established voluntary participation levels. The goals for this contract are 20% Voluntary Subcontractor Participation Goal, 15% Voluntary Subconsultant Participation Goal. Goals are achieved by contracting with any combination of Minority Business Enterprise (MBE), Women Business Enterprise, Disadvantaged Business Enterprise, Disabled Veteran Business Enterprise, or Other Business Enterprise level. Attainment of the participation level goal is strongly encouraged, but strictly voluntary. Prior to award, a workforce report or an Equal Employment Opportunity (EEO) Plan will be submitted to the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP) for approval. Staff will monitor the plan and adherence to the Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

This action would authorize the appropriation and expenditure of funds in the amount not to exceed \$446,470 from the General Services Department, Storm Water Pollution Prevention Division Fiscal Year 2008 Operating Fund (#100) for the purposes of performing research, polling and outreach services. The total value of the original agreement (\$240,000) and First Amendment (\$446,470) would be \$686,470.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On January 22, 2007, the City of San Diego approved Document # C-14073 authorizing Goodwin Simon Victoria Research to conduct research, polling and outreach services on behalf of the City's Storm Water Pollution Prevention Division, General Services Department. On February 27, 2008, the Natural Resources & Culture Committee (Committee) voted unanimously to forward the item titled, "First Amendment To Agreement With Goodwin Simon Victoria Research not-to-exceed \$446,470"

to full Council, and requested additional information regarding consultant work completed under the original Agreement and new work anticipated under the proposed First Amendment to the Agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Consultant service will continue to augment and implement the City's education and outreach efforts of the Think Blue program, whose goal is to change the polluting behaviors of residents, business and industry across the region in order to improve water quality and comply with the updated 2007 Municipal Storm Water Permit, the two pending Total Maximum Daily Load (TMDL) orders, and water quality improvements to the Areas of Special Biological Significance (ASBS) in La Jolla Shores.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include San Diego residents, businesses, Goodwin Simon Victoria Research, Action Research and industry Citywide. Projected Impacts: None anticipated with this action.

Sierra/Jarrell

Aud. Cert. 2800617.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

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

* ITEM-101: Agreement with D-Max Engineering, Inc. for Industrial/Commercial and Structural Treatment BMP Storm Water Inspections.

(See General Services Department's Undated Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-769) ADOPTED AS RESOLUTION R-303549

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with D-Max Engineering, Inc. for as-needed industrial and commercial, watershed-based, and treatment control best management practices storm water inspections, from March 2008 through August 2009, as set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$1,569,700 from General Fund No. 100, General Services Storm Water Pollution Prevention Division Dept. No. 533, solely and exclusively, to provide funds for the above agreement;

Declaring that the above activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3) because this activity will not have a significant effect on the environment.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

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

SUPPORTING INFORMATION:

In 2007, the California Water Quality Control Board, Region 9, issued the 2007 Municipal Permit (Order No. R9-2007-0001) to the jurisdictions in the San Diego Region. The 2007 Municipal Permit has significantly changed the current inspection requirements for industrial and commercial facilities and structural treatment control Best Management Practices (BMP). These changes have increased the number of inspections for which the City of San Diego is responsible from approximately 300 to approximately 5,000 industrial/commercial facilities and 500 structural treatment control BMPs.

The industrial and commercial facility inspection program is meant to identify those facilities that are not meeting the requirements of the storm water regulations and to help those facilities achieve compliance. The structural treatment control BMP inspections are meant to ensure that BMPs required to be included in new development are functioning as they were designed, and if

not, to notify the Storm Water Division that enforcement action may be needed against the parties responsible for maintaining them. For those facilities that are actively violating storm water regulations these violations will be reported to the Storm Water Division for appropriate enforcement.

In November 2007, the City advertised for a consultant to perform inspections of industrial and commercial facilities and structural treatment control BMPs via an RFP process in accordance with Administrative Regulation No. 25.70. The list of firms that were used to solicit the Industrial and Commercial Inspections, Watershed-Based Inspections, and Treatment Control BMP Inspections, 9038-08-Z-RFP, came from the City's Consultant Rotation List. The Consultant Rotation List was advertised in the following media: La Prensa, San Diego Voice and Viewpoint, the Asian Journal, the San Diego Daily Transcript, City of San Diego web pages, and Integrated Marketing Systems. A cursory review was also done in the City's "DEVO" Program (Diverse Emerging Vendor Outreach, managed by the San Diego County Hispanic Chamber of Commerce), and there were no consultant firms available on this list relative to this scope of work.

The technical evaluation committee (TEC) reviewed the technical proposal and the price proposal, separately, and recommended by consensus that award of the contract should be to D-Max Engineering, Inc. Purchasing and Contracting contacted D-Max Engineering, Inc. for a best and final offer. Dr. Arsalan Dadkhah of D-Max Engineering, Inc. explained that the price proposal was a best and final offer and that they took economies of scale (for the 3 different scopes of work) into consideration in their prices. D-Max Engineering, Inc. was deemed to be responsible and providing the best overall value to the City considering the evaluation factors in the RFP. The recommendation for award of a contract is in the best interest of the City.

The proposed contract with D-Max Engineering, Inc., will allow the Storm Water Pollution Prevention Division of the General Services Department to receive inspections services on an as-needed basis for an amount not to exceed \$1,569,700. The inspection services will begin in March 2008 and concluding in August 2009, with three (3) one-year options to amend. Services will include, but not be limited to, inspection services for the industrial/commercial program and the structural treatment control BMP inspection program under the 2007 Municipal Permit. Inspections will be conducted City-wide. D-Max Engineering, Inc. will not have an enforcement role and their task will be only to inspect and report results of inspections to the Storm Water Division, which will perform all enforcement responsibilities under the Municipal Code.

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-1873, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517)

FISCAL CONSIDERATIONS:

The City will expend an amount not to exceed \$1,569,700 from the Fiscal Year 2008 General Services Department, Storm Water Pollution Prevention Division operating budget (Fund #100, Department #533) for the purpose of industrial, commercial, and structural treatment control BMP inspections as required by the 2007 Municipal Permit.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City of San Diego entered into an As-Needed Professional Services Agreement with D-Max Engineering, Inc. (C-12597 March 4, 2004; RR-299480) to perform storm water inspections of industrial facilities as required by the 2001 Municipal Permit.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders included San Diego residents, businesses, and industry in all council districts across the City. Projected Impacts: None associated with this action.

Sierra/Jarrell

Aud. Cert. 2800634.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:04 p.m. – 6:10 p.m.)

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

ITEM-102: Agreement with Jones and Stokes Associates, Inc. to Provide Planning Services for the Preparation of a Master Plan for the Grantville Redevelopment Project Area. (Navajo and Tierrasanta Community Areas. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-799) ADOPTED AS RESOLUTION R-303550

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Jones & Stokes Associates, Inc. to provide planning services for the preparation of a Master Plan for the Grantville Redevelopment Project Area under the terms and conditions set forth in the Agreement;

Declaring the expenditure of an amount not to exceed \$792,181 to provide planning services for the preparation of a Master Plan for the Grantville Redevelopment Project Area;

Authorizing the expenditure of an amount not to exceed \$792,181 from the General Fund Appropriated Reserve Fund 100 to the City Planning & Community Fund 100 for the purpose of providing funds for the above referenced Agreement;

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

Declaring that 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:

On June 12, 2007, the City Council initiated amendments to the Navajo and Tierrasanta Community Plans for the preparation of a master plan for Subareas A and B of the Grantville Redevelopment Project Area. The City has conducted a competitive bidding process for the selection of a planning consultant for Subarea A. As a result of the competitive bidding process, the City has selected Jones & Stokes Associates, Inc. to provide the professional planning services to develop the master plan.

The development of a master plan would ensure that the full range of plan development and implementation issues related to community revitalization in the Grantville area is analyzed. The master plan would evaluate some of the following issues: determination of future land uses, provision of adequate infrastructure, improvements to circulation, transit-oriented development around the trolley station and the San Diego River Park as a public open space amenity.

Funds to complete the master plan project were budgeted from Community Development Block Grant (CDBG) funds and future tax-increment funds from the Grantville Redevelopment Project Area. With the City's recent reform of the CDBG Program, the project is not eligible for the initial allocation of CDBG funds. Future tax-increment funds are not readily available and the City is now in a position to fund the work needed to continue the process. The City Planning & Community Investment Department anticipates the use of the selected consultant to complete the master plan process, which includes continuing public outreach, completing the technical studies and drafting the policy document. The City has established a stakeholders committee to provide recommendations during the master plan process, which has already held 3 regular meetings. The appropriation of the requested funding and approval of the consultant agreement would allow the selected consultant to begin the planning work and allow the stakeholders committee to continue meeting.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego

Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)

Sub Consultant Participation: \$572,583

Other: A Work Force Report was submitted, and an Equal Opportunity Plan was requested and submitted. A corrected EO plan has been requested from Jones & Stokes by EO staff. Staff will continue to monitor adherence to the Non discrimination Ordinance.

FISCAL CONSIDERATIONS:

The \$792,181 allocation from the Appropriated Reserve is requested to hire the selected consultant to continue the work on the master plan process. A total (not to exceed) of \$792,181 will be made available for the planning work on the project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On June 12, 2007, the City Council initiated amendments to the Navajo and Tierrasanta Community Plans for the preparation of a master plan for Subareas A and B of the Grantville Redevelopment Project Area.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

The City Planning and Community Investment Department has established a Grantville Stakeholders Committee (GSC) composed of property owners, business owners and existing community organizations to provide recommendations during the master plan process. The Department and its consultants will work closely with the GSC and other interested members of the community throughout the planning process for the master plan.

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

Jones & Stokes Associates, Inc. and other stakeholders listed above, including the Navajo Community Planning Group, Tierrasanta Community Council, Allied Gardens Community Council, the San Diego River Park Foundation, the Metropolitan Transit System, and interested community members.

Wright/Anderson

Aud. Cert. 2800629.

Staff: Jennifer Cordeau - (619) 235-5204
Marianne Greene - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:31 p.m.)

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

* ITEM-103: Substitution of 2000 Park Bond per Capita Funds with 2002 Resources Bond Funds to Fully Expend Park Bond Funds Before Expiration Date. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-780) ADOPTED AS RESOLUTION R-303539

Authorizing the Mayor, or his representative, to make an application to the State of California for \$122,318, in Per Capita grant funds and \$245,437 in Roberti-Z'berg-Harris Per Capita grant funds under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002, (hereafter referred to as 2002 Resources Bond), for upgrades needed at school district

facilities used jointly by the school and the City throughout the City of San Diego, CIP-29-889.0, Joint Use Improvements Citywide (as sublets for each project.) Locations of improvements include: Cadman Elementary School, Crown Point Elementary School, Penn Elementary School, Adams Elementary School, Dailard Elementary School, Doyle Elementary School, Mason Elementary School, and Walker Elementary School;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend \$122,318 of 2002 Resources Bond Per Capita grant funding and \$245,437 of 2002 Resources Bond Roberti-Z'berg-Harris Per Capita grant funding, from CIP-29-889.0, Joint Use Improvements Citywide, for upgrades needed at joint use facilities, if grant funding is secured;

Authorizing the Mayor, or his representative, to make an application to the State of California for \$25,000 in Per Capita grant funds under the 2002 Resources Bond Act, for a new roof at the Martin Luther King, Jr. Recreation Center, CIP-29-914.0;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend \$25,000 of 2002 Resources Bond Per Capita grant funding, from CIP-29-914.0, Martin Luther King, Jr. Recreation Center - Roof Replacement, if grant funding is secured;

Authorizing the Mayor, or his representative, to make an application to the State of California for \$297,095 in Per Capita grant funds under the California Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2000, (hereafter referred to as 2000 Park Bond), for Rancho Bernardo Community Park Dog Off-Leash Area, CIP-29-598.0;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend \$297,095 of 2000 Park Bond Per Capita grant funding from CIP-29-598.0, Rancho Bernardo Community Park Dog Off-Leash Area, if grant funding is secured;

Authorizing the Mayor, or his representative, to make an application to the State of California for \$245,437 in Per Capita grant funds under the 2000 Park Bond, for the Mission Bay Boat Launching Facilities Upgrade, CIP-22-953.0;

Authorizing the City Auditor and Comptroller to appropriate and expend \$245,437 from Mission Bay Boat Launching Facilities Upgrade, CIP-22-953.0, 2000 Park Bond Per Capita grant funds, if grant funding is secured;

Authorizing the City Auditor and Comptroller to transfer 2002 Resources Bond Per Capita grant funds of \$122,318 from Fund No. 38127, CIP-29-598.0, Rancho Bernardo Community Park Dog Off-Leash Area, to Fund No. 38127, CIP-29-889.0, Joint Use Improvements Citywide, contingent upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to transfer 2002 Resources Bond Roberti-Z'berg-Harris Per Capita grant funds of \$245,437 from Fund No. 38085, CIP-22- 953.0, Mission Bay Boat Launching Facilities Upgrade, to Fund No. 38085, CIP-29-889.0, Joint Use Improvements Citywide, contingent upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to transfer 2002 Resources Bond Per Capita grant funds of \$25,000 from Fund No. 38127, CIP-29-598.0 Rancho Bernardo Community Park Dog Off-Leash Area, to Fund No. 38127, CIP-29-914.0, Martin Luther King, Jr. Recreation Center - Roof Replacement, contingent upon receipt of a fully executed grant agreement, and replace Fund No. 38160;

Authorizing the Mayor, or his representative, to take all necessary actions to secure grant funding from the State of California;

Authorizing the City Auditor and Comptroller to establish special interest-bearing funds for the grants;

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

STAFF SUPPORTING INFORMATION:

The goal of this action is to use all available grant funds from the 2000 Park Bond Per Capita (Prop 12) on projects that will be completed by the grant program's expiration date of June 30, 2008. This can be accomplished by substituting funds from two projects funded by the 2002 Resources Bond (Prop 40) which expires in June 30, 2011, for two other projects funded by Prop 12 which expires in June 30, 2008. Specifically, the Prop 12 funds currently scheduled to be expended on the Citywide Joint Use Improvements and Martin Luther King, Jr. Recreation Center Roof projects will be exchanged with Prop 40 funds from the already completed Dana Basin Restroom and Rancho Bernardo Dog Park projects.

The Citywide Joint Use Improvements and Martin Luther King, Jr. Recreation Center Roof projects will be completed in Fiscal Year 2009. Since the Prop 40 funding expires on June 30, 2011, the fund exchange will allow the time necessary to complete the projects in order to be fully reimbursed for the Prop 40 funding. The fund substitution complies with grant contract requirements and City financial requirements.

2000 Park Bond (Prop 12)

On March 7, 2000, California voters passed Proposition 12, the \$2.1 billion “Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000”. The City of San Diego received population-based funding for park improvements through the Per Capita program. City Council Resolution R-293698 approved allocations of the City’s \$8,216,000 Prop 12 Per Capita funds for specific park improvement projects in each Council District. The current action will ensure all City park projects built with Prop 12 Per Capita grant funds will be completed and fully reimbursed by the June 30, 2008 fund liquidation date. After the liquidation date, the unused funds revert to the State of California.

2002 Resources Bond (Prop 40)

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond “Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002.” Like the 2000 Park Bond, the 2002 Resources Bond provides population-based funding for park improvements. City Council Resolution R-298699 included a distribution of the \$11,063,430 Per Capita funds to each Council District, with a portion of the funding set aside for projects with Citywide and regional impact. The funding for these grants terminates June 30, 2011.

FISCAL CONSIDERATIONS:

This action will exchange the source of funding for projects shown below. It will not change the total grant amount, total funding, or the total cost per project. This action has no impact on operating or maintenance costs. Allocation of the resulting \$149,777 Prop 40 funds available for a Citywide park project will come to City Council in a future request.

<u>PROJECT</u>	<u>ORIGINAL FUNDING</u>	<u>SOURCE</u>	<u>THIS REQUEST</u>	<u>SOURCE</u>
Joint Use Improvements Citywide CIP-29-889.0	\$367,755	Prop 12 - 2000 Park Bond	\$367,755	Prop 40 - 2002 Resources Bond
Martin Luther King, Jr., Recreation Center Roof CIP-29-914.0	\$25,000	Prop 12 - 2000 Park Bond	\$25,000	Prop 40 - 2002 Resources Bond

Mission Bay Boat Launching Facilities Upgrade (completed project) CIP-22-953.0	\$245,437	Prop 40 – 2002 Resources Bond	\$245,437	Prop 12 - 2000 Park Bond
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Rancho Bernardo Community Park Dog Off-leash Area (completed project) CIP-29-889.0	\$297,095	Prop 40 - 2002 Resources Bond	\$297,095	Prop 12 - 2000 Park Bond
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PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Resolution R-293698 - Approval of grant applications for the 2000 Park Bond.
Resolution R-298036 - Approval of grant applications for the 2002 Resources Bond.
Ordinance O-19396 - FY 2006 Capital Improvements Program Budget including approval of Joint Use Improvements - Citywide, 29-889.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable. This is an internal change to the source of grant funds for projects and does not affect the amount available to each project.

STAKEHOLDERS AND PROJECTED IMPACTS:

Not applicable. This is an internal change to the source of grant funds for projects and does not affect the amount available to each project.

LoMedico/Heap

Staff: Carol Wood - (619) 525-8217
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

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

- * ITEM-104: Agreement with Greater Golden Hill Community Development Corporation for Administration of Contracts for Goods and Services for the Greater Golden Hill Maintenance Assessment District (MAD). (Greater Golden Hills Community Area. Districts 3 and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-763) ADOPTED AS RESOLUTION R-303551

Authorizing the Mayor to execute a Maintenance Agreement with the Greater Golden Hills Community Development Corporation (GGHCDC) for a one year period beginning July 31, 2007 through June 30, 2008;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$73,334 from Fund No. 70286 for administrative costs incurred by the GGHCDC in the course of providing services under the Maintenance Agreement for the Greater Golden Hill MAD, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$19,556 from Fund No. 70286 to Fund No. 70267 for administrative costs incurred by the City of San Diego in the course of providing administrative services to the Greater Golden Hill MAD, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available.

STAFF SUPPORTING INFORMATION:

The San Diego Municipal Code allows non-profit corporations to administer MADs when an assessment weighted majority of district property owners support the selection of a particular non-profit corporation for their district. The San Diego Municipal Code Section 65.0212 paragraph (b)(2), authorizes the City Council to approve a one year Agreement with non-profit corporations to administer the Contracts for Goods and Contracts for Services in Maintenance Assessment Districts ("MADs").

The property owners selected the Greater Golden Hill Community Development Corporation, a non-profit corporation (“Association”) to manage the annual Agreement from July 31, 2007 through June 30, 2008. This action will authorize the Mayor to execute an Agreement between the City and the Association for a period of one year beginning on July 31, 2007 through June 30, 2008. The Agreement will provide the following:

1. The Association will administer Contracts for Goods and Contracts for Services and prepare financial statements for their respective Districts as provided for in the Maintenance Assessment District Ordinance, Landscape and Lighting Act of 1972, and as set forth in the Assessment Engineer’s Report for the Greater Golden Hill Maintenance Assessment District.
2. The Association will perform all duties as set forth in the Agreement under Article I; Section B, referred to as Specific Requirements.
3. The Association will be compensated for administration in an amount not to exceed 15% of the total approved assessments for FY08. The projected total annual assessments for the following Greater Golden Hill Maintenance Assessment District in FY08 are \$488,890.

This action will also authorize the transfer of \$19,556 to Fund Number 70267 for City administration (by the Economic Development Division of the City Planning and Community Investment Department) of the Greater Golden Hill self-managed MAD for Fiscal Year 2008. City administrative fees in self-managed maintenance assessment districts range from a minimum of \$3,500 to a maximum of 4% of total assessments and will be used to fund engineering, auditing, payment processing, budgeting and other services related to the administration of the district.

<u>District</u>	<u>Assessment Amount</u>	<u>Non-Profit Administration Fee</u>	<u>City Administration Fee</u>
Greater Golden MAD	\$488,890	\$73,334	\$19,556

FISCAL CONSIDERATIONS:

Under the terms of the agreements, the City will be reimbursed \$19,556 for administrative services.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The non-profit Association was approved by benefiting property owners through Proposition 218 ballot procedure on July 30, 2007. As a result, City Council passed resolution R-302887 which authorized the Mayor, or his designee, to negotiate a contract with the Greater Golden Hill Community Development Corporation pursuant to Municipal Code §65.0212-65.0214 in the matter of the Greater Golden Hill Maintenance Assessment District.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The district has held meetings and published newsletters which have been distributed to property owners in the Greater Golden Hill MAD.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are the property owners and business community within the Greater Golden Hill MAD.

Kessler/Anderson

Aud. Cert. 2800619.

Staff: Luis E. Ojeda - (619) 236-6475
Kimberly K. Harris - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:49 p.m.)

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

* Item-105: Two actions Proposition 1C-Infill Infrastructure Grant Program. (Southeastern San Diego and Centre City Community Areas. Districts 2, 7, and 8.)

(See Report to the City Council No. 08-044.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-801 Cor. Copy) ADOPTED AS RESOLUTION R-303540

Authorizing the Mayor to support applications to the California Department of Housing and Community Development (HCD) for funding under Proposition 1C - Infill Infrastructure Grant Program for housing projects in the City of San Diego that meet the HCD eligibility criteria;

Authorizing the Mayor to provide a letter of legislative support for the applications of the Comm 22 Project (22nd Street and Commercial) the 7th and Market Project; and the Ballpark Village Project;

Authorizing the Mayor, and/or his designee, to establish the East Village Sub-district Planning Area as a Qualifying Infill Area (QIA) and to apply for Infill Infrastructure Grant funds for the area as a qualifying project area;

Authorizing the Mayor, and/or his designee, to take all necessary actions to secure funding from the HCD for the aforementioned Proposition 1C Infrastructure Improvement Projects;

Declaring that this activity, as the provision of legislative support for previously approved and in-process projects, and as an application for Infill Infrastructure Grant funds, has been determined by the City not to constitute a "project" and is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3). Any construction activities related to this approval shall be subject to environmental review by the City and, further, any forthcoming development proposals for which these funds would be used will be subject to CEQA review.

Subitem-B: (R-2008-832) ADOPTED AS RESOLUTION R-303541

Authorizing the Mayor to support applications to the California Department of Housing and Community Development (HCD) for funding under Proposition 1C - Infill Infrastructure Grant Program for housing projects in the City of San Diego that meet the HCD eligibility criteria;

Authorizing the Mayor to provide a letter of legislative support for the application of the Centre Point Project, located within the Crossroads Redevelopment Project Area, for Proposition 1C - Infill Infrastructure Grant Program funds;

Authorizing the Mayor, and/or his designee, to take all necessary actions to assist the Centre Point Project, as applicant, to secure funding from the HCD for the aforementioned Proposition 1C Infrastructure Improvement Project;

Declaring that this activity, as the provision of legislative support for previously approved and in-process projects, and as an application for Infill Infrastructure Grant funds, has been determined by the City not to constitute a "project" and is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3). Any additional construction activities related to this approval shall be subject to environmental review by the City and, further, any forthcoming development proposals for which these funds would be used will be subject to CEQA review.

Staff: Job Nelson - (619) 236-5980
Alex W. Sachs - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

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

* ITEM-106: Easement Vacation of a Portion of the Southerly Half of Lot 1 in Block "D" of Starkey's Prospect Park. (La Jolla Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-776) ADOPTED AS RESOLUTION R-303542

Vacating the public right-of-way easement located within that portion of the Southerly Half of Lot 1 in Block "D" of Starkey's Prospect Park, to unencumber this property to allow for the sale of this excess parcel, under the procedure for the summary vacation of easements, California Streets and Highways Code Section 8300 et seq.;

Declaring that the Department of Real Estate Assets shall cause a certified copy of this resolution, with attached exhibits, attested by the Clerk under seal, to be recorded in the Office of the County Recorder.

STAFF SUPPORTING INFORMATION:

In 1958, the City acquired a 6,145 square foot parcel as part of the now abandoned Fay Avenue expansion project in La Jolla. As part of the acceptance of the property, the northwest corner of the parcel was mistakenly dedicated for street purposes, leaving the remainder of the property undedicated. This portion of the property is completely landlocked and not adjacent to any public utility or right of way.

In May of 2007, the City Council approved Resolution R-302642 which identified this parcel as excess to the City's needs and approved its sale. To further clear the property for sale, it is necessary to vacate that portion of the parcel that was erroneously dedicated at the time of its acquisition. The portion of this parcel to be vacated does not contain public utility facilities and is not required for street or highway purposes. There is no present or prospective public use for this public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated. This vacation can be accomplished under San Diego Municipal Code 125.1901, which supplements the provisions of California Streets and Highways Code Section 8330.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
City Council hearing May 21, 2007, Resolution R-302642.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City of San Diego will benefit by receipt of the sale proceeds; relief from future liability and maintenance expenses associated with the ownership of this property; and additional property taxes from the return of this property to the tax roles.

Barwick/Anderson

Staff: David Sandoval - (619) 236-5548
Rachel C. Lipsky - Deputy City Attorney

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

FILE LOCATION: F-10230

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

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

* ITEM-107: Modification of Appointment to the Committee of the SANDAG Board for Calendar Year 2008. (Citywide.)

(See memorandum from Mayor Sanders and Council President Peters dated 2/26/2008.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-767) ADOPTED AS RESOLUTION R-303543

Appointing Councilmembers Toni Atkins and Ben Hueso as alternates to the SANDAG Board of Directors by the Mayor and City Council, for the period ending December 8, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

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

- * ITEM-108: Amending the 2008 Legislative Calendar Related to Public Safety and Neighborhood Services Committee Meetings.

PUBLIC SAFETY AND NEIGHBORHOOD SERVICES' RECOMMENDATION:

Adopt the following resolution:

(R-2008-766) ADOPTED AS RESOLUTION R-303544

Amending the schedule of meetings for the City Council and Standing Committees, and Council Budget Hearings of the City Council for the period January 1, 2008 through December 31, 2008, known as the 2008 Legislative Calendar, to add a meeting of the Public Safety & Neighborhood Services Committee, to be held Thursday, April 24, 2008, from 2:00 p.m. to 5:00 p.m.;

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

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

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

* ITEM-109: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-697) ADOPTED AS RESOLUTION R-303545

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

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

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

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

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

* ITEM-110: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-545) ADOPTED AS RESOLUTION R-303546

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

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

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

* ITEM-111: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-750) ADOPTED AS RESOLUTION R-303547

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: 10:26 a.m. – 10:28 a.m.)

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

* ITEM-112: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-619) ADOPTED AS RESOLUTION R-303548

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

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

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

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

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

ITEM-330: Report from the San Diego City Employee's Retirement System Actuary.

REPORT RECEIVED

MAYOR SANDERS' RECOMMENDATION:

Presentation of an informational report from the San Diego City Employee's Retirement System Actuary as requested by the City Council.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:18 a.m. – 11:58 a.m.)

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

ITEM-331: Report from the Independent Oversight Monitor.

MAYOR SANDERS' RECOMMENDATION:

Take the following action:

REPORT RECEIVED

Presentation of an informational report from Mr. Stanley Keller, the Independent Oversight Monitor.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:49 p.m. – 3:47 p.m.)

ITEM-332: Tax Ordinance Amending Retirement Plan Consistent with IRS Compliance Statement.

MAYOR SANDERS' RECOMMENDATION:

Adopt the resolution in Subitem A and introduce the ordinance in Subitem B:

Subitem-A: (R-2008-833) ADOPTED AS RESOLUTION R-303552

Adopt the resolution ratify the signature of the Chief Operating Officer approving the tri-party Compliance Statement between the City of San Diego, San Diego

City Employees Retirement System (SDCERS) and the Internal Revenue Service, entered into by the City and SDCERS on December 20, 2007 and the Internal Revenue Service on January 10, 2008.

Subitem-B: (O-2008-133) INTRODUCED AS AMENDED, TO BE ADOPTED
ON TUESDAY, APRIL 15, 2008

Introduction of an Ordinance amending Chapter 2, Article 4, of the San Diego Municipal Code by amending Division 1, Sections 24.0103 and 24.0103.1; by amending Division 2, Sections 24.0201 and 24.0202; by amending Division 3, Sections 24.0301 and 24.0302; by amending Divisions 8, Section 24.0801; by amending Division 9, Sections 24.0901 and 24.0902; by amending Division 10, by renumbering Section 24.1000 to Section 24.1001, Section 24.1005 to Section 24.1003, by amending the renumbering Section 24.1010 to 24.1004, by renumbering Section 24.1011 to Section 24.1005, Section 24.1012 to Section 24.1006. Section 24.1013 to Section 24.1007, and Section 24.1014 to Section 24.1008, and by adding Section 24.1009; by repealing Division 12, Section 24.1203 and amending Section 24.1204; by repealing Division 13, Section 24.1310(c), by repealing Division 14, Section 24.1402(b)(9), by repealing Division 15, Section 24.1502(a)(5); all relating to the San Diego City Employees' Retirement System.

SUPPORTING INFORMATION: On July 12, 2005, the SDCERS Board of Administration ("Board") filed a Form 5300 application with the Internal Revenue Service ("IRS"), seeking a favorable determination letter to confirm its tax-qualified status. On that date, the Board also filed a request for a compliance statement under the Voluntary Correction Program ("VCP") of the IRS' Employee Plans Compliance Resolution System. The VCP is a program that allows a plan to voluntarily disclose to the IRS plan document or operational qualification failures it has discovered in its plan, propose corrections and ultimately receive IRS approval of corrections.

SDCERS' initial VCP filing concerned the "presidential leave" benefit that was created by the City to allow the presidents of certain City employee labor unions to continue to participate in SDCERS while serving as union presidents, and to receive a retirement benefit based on union compensation and combined City and union service. Between July 2005 and August 2006, SDCERS filed eight supplemental VCP filings that identified other violations, and proposed corrections and remedial plan amendments.

On December 18, 2007, the IRS issued a proposed Compliance Statement, resolving all of SDCERS' VCP submissions. The Compliance Statement was signed by the Board President, on behalf of the Board, and by the City's Chief Operating Officer, on behalf of the City, on December 20, 2007. The Board unanimously ratified the Compliance Statement on

December 21, 2007. The IRS signed the Compliance Statement on January 10, 2008. The Compliance Statement requires that the City Council adopt certain of the amendments contained in this ordinance.

On January 25, 2008, the IRS issued SDCERS a favorable Determination Letter, confirming SDCERS' tax-qualified status. The Determination Letter is contingent upon the City Council's adoption of all of the amendments contained in this ordinance (which has been approved by the IRS) on or before April 25, 2008.

The Technical Tax Ordinance contains the following amendments, which are in most cases required by both the Determination Letter and the Compliance Statement:

- 1) amendments necessary to conform the plan to relevant provisions of the following federal laws: the Tax Reform Act of 1986, the Omnibus Budget Reconciliation Act of 1986, the Omnibus Budget Reconciliation Act of 1990 (collectively referred to as "TRA '86"), the Unemployment Compensation Amendments of 1992 ("UCA '92"), the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93"), the Uruguay Round Agreements Act ("GATT"), the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), the Small Business Job Protection Act of 1996 ("SBJPA"), the Taxpayer Protection Act of 1997 ("TRA '97"), the Internal Revenue Service Restructuring and Reform Act of 1998 ("RRA '98"), and the Community Renewal Tax Relief Act of 2000 ("CRA" and together
- 2) with GATT, USERRA, SBJPA, TRA '97, and RRA '98 are referred to as "GUST"), and interim good faith compliance amendments with respect to the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") (required by the Compliance Statement (Failures #1-3);
- 3) retroactive elimination of the "presidential leave" benefit (required by the Compliance Statement (Failure #4);
- 4) retroactive elimination of the "cashless leave conversion" benefit, which allowed City employees in the San Diego Firefighters Local 145 bargaining unit to convert to SDCERS service credit the "cash equivalent" of the accumulated annual leave they accrued after June 30, 2002 (required by the Compliance Statement (Failure #5);
- 5) elimination, retroactive to July 1, 2005, of all SDCERS Plan provisions relating to the 401(h) retiree health account, and all provisions that require or allow the use of SDCERS Trust Fund
- 6) assets to pay retiree health benefits or the costs of administering retiree health benefits (required by the Compliance Statement (Failure #7);

- 7) retroactive elimination of the SDCERS Plan provision stating that employer contributions will be based upon a Memorandum of Understanding entered into between the City and SDCERS, substituting language providing that effective, July 26, 2004, the amount of employer contributions the City must pay to the Plan will be determined by the Board based upon the advice of its Actuary (required by the Compliance Statement (Failure #14)); and
- 8) provision of state-mandated domestic partner benefits retroactive to January 1, 2005, to conform to plan operation (required by the Compliance Statement (Failure #13)); and
- 9) provisions stating that the Board will adopt by Rule: (a) member contribution rates, (b) interest rates credited to member contribution and DROP accounts, and (c) mortality, service and other tables it deems necessary, and that these Rules are incorporated into the SDCERS Plan Document (required by the Determination Letter).

The IRS has negotiated and approved all of the amendments contained in this Ordinance. This Ordinance has also been reviewed and approved by attorney Samuel Hoffman, tax counsel retained by the City for this purpose. Mr. Hoffman's analysis and conclusions regarding the IRS Voluntary Correction Plan Settlement Agreement and the proposed Tax Ordinance are presented in Attachment 2. Final adoption of this Ordinance, on or before April 25, 2008, is necessary to maintain the qualified status of the SDCERS Plan.

FISCAL CONSIDERATIONS:

The proposed Ordinance formally eliminates or amends a number of pension plan elements. Some of these changes have already been instituted. The changes have financial impacts to certain employees, the City and the Retirement System. The status of implementation as well as a description of the impacts are described in Mr. Hoffman's letter (Attachment 2).

The IRS's favorable determination letter is contingent upon the adoption of these amendments. Failure to adopt the amendments could result in the disqualification of the plan, which would result in immediate taxation of vested benefits to the members, taxation of member contributions, and taxation of the trust fund's earnings. For FICA-covered positions, the employer contributions to a disqualified plan would be subject to FICA taxation as well as income taxation. Employees would lose favorable distribution provisions - for example, they would be unable to rollover distributions from the disqualified plan.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

TODAY'S ACTION IS:

Take the following actions:

(R-2008-00) CONTINUED TO TUESDAY, APRIL 29, 2008

Accept the Kroll Remediation Status Report Number 6;

File the Project Charter;

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

AUDIT COMMITTEE'S RECOMMENDATION:

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 8:17 p.m. – 8:18 p.m.)

MOTION BY YOUNG TO CONTINUE TO TUESDAY, APRIL 29, 2008, DUE TO LACK OF TIME. 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: Two actions related to General Fund Deferred Maintenance Capital Improvement Projects Financing. (Citywide.)

(See Reports to the City Council No. 08-042 and 08-041; and memorandum from Lakshmi Kommi dated 3/17/2008.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2008-129) CONTINUED TO TUESDAY, APRIL 22, 2008

Introduction and adoption of an Ordinance approving the form of and authorizing the execution and delivery of a site lease, a lease, and a purchase agreement and authorizing the execution, delivery and performance of an assignment agreement and an indenture by the Public Facilities Financing Authority of the City of San Diego, and approving and authorizing the issuance and sale of not to exceed \$108,000,000 of the Authority's Lease Revenue Bonds, Series 2008A (Various Capital Improvement Projects), approving the form of and authorizing the execution and delivery of a financial advisory services agreement, authorizing the City Attorney to appoint bond counsel, and approving other documents and actions in connection therewith.

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

Subitem-B: (R-2008-778) CONTINUED TO TUESDAY, APRIL 22, 2008

Declaring the City Council's intention to reimburse expenditures for project costs from proceeds of tax-exempt obligations.

STAFF SUPPORTING INFORMATION:

The 2008A Bonds are an interim financing measure to address the funding needs identified for the General Fund deferred maintenance capital improvement projects in Fiscal Years 2008 and 2009. The proposed 2008A Bonds, with a 10-year maturity, will be privately placed with Bank of America, N.A.

The financing plan contemplates refunding the proposed private borrowing in two years (2010) with a 30 year traditional public offering. Therefore, instead of fixing an interest rate for the full 10 year borrowing term which would be higher than for a borrowing term for 2 years, working

with the Purchaser, a two-tier pricing (described below) was structured: a lower fixed interest rate (based on a 2-year index plus fixed spread) for the first two year period and if the City is unable to refund the 2008A Bonds by 2010, a higher interest rate (based on an 8-year index plus fixed spread) for years 3-10. Note that under the financing structure, if the City is not able to refund the notes by the two year point, based on the market conditions at that time, and the levels of the 8-year index, the interest rate is fixed for 3-10 year period until the City can refund the Bonds could be a maximum of 12% (the maximum permitted legal rate). Based on current interest rate levels as of March 12, 2008, the interest rate for the 2 year term is 3.46% and the interest rate for the 3-10 year term will be 4.45% (See full staff report for discussion on pricing).

The issuing authority for the 2008A Bonds is the Public Facilities Financing Authority (the "Authority"). Financing documents being authorized for this transaction include - A Site Lease between the City and the Authority; a Lease Agreement between the City and the Authority; an Assignment Agreement between the Authority and the Trustee; an Indenture between the Authority and the Trustee; and a Purchase Agreement between the Purchaser and the Authority. It is anticipated that funding for certain capital expenditures related to the projects may need to be advanced by the City prior to the completion of the proposed financing. In order to reimburse capital expenditures with proceeds from the financing, the City must adopt a reimbursement resolution in accordance with Section 1.150-2 of Treasury Regulations.

The City's Financing Team for the 2008A Bonds consists of staff of the Chief Financial Officer, Debt Management, City Attorney's Office, Comptroller's Office, Treasurer's Office, Risk Management, General Services, and the Real Estate Assets Department. Outside consultants, include Montague DeRose and Associates, LLC ("Montague DeRose") as financial advisor, Hawkins Delafield & Wood LLP ("Hawkins") as the Bond Counsel, White & Case as the Purchaser's Counsel, and Wells Fargo Bank as Trustee.

Should the City Council approve the Ordinance and related financing documents, it is anticipated that the bonds would be priced during the last week of May 2008 with the closing and receipt of funds to occur during the first week of June 2008.

FISCAL CONSIDERATIONS:

Sources and Uses (preliminary and subject to change):

- **Estimated Sources**

Par amount of 2008A Bonds	\$102,552,000
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- **Estimated Uses**

Net Proceeds for the project (acquisition fund)	\$102,250,000
Costs of Issuance	\$302,000

Based on the principal amount of approximately \$102.6 million, and pricing as of March 12, 2008, the annual interest payment is estimated at approximately \$3.5 million for years 1 and 2.

Interest only payments during the first two years will be made on a semi-annual basis on December 1 and June 1. The estimated debt service has been incorporated in the 5-year outlook and will be brought forward for Council authorization during the FY 2009 budget process. If the bonds remain outstanding beyond 2 years, the annual debt service (principal and interest), based on the interest rate as of March 12, 2008, is projected at approximately \$15.5 million, FY 2011-FY 2018.

EQUAL OPPORTUNITY CONTRACTING:

The Funding Agency is the City. Montague DeRose will provide financial advisory services for an amount not to exceed \$42,500 for the proposed 2008A Bonds. Montague DeRose submitted a Work Force Report indicating less than 15 employees and is, therefore, exempt from employment category goals.

Hawkins will provide Bond Counsel services for an amount not to exceed \$75,000 for the proposed 2008A Bonds. Hawkins submitted a Work Force Report, EOC staff has requested, received and approved an EO Plan from Hawkins Delafield and Wood. Staff will continue to monitor the firm's efforts to implement their plans.

PREVIOUS COUNCIL MEETING and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Business entities involved in this transaction are: Bank of America, N.A. (Purchaser); Hawkins Delafield & Wood LLP (Bond Counsel); White & Case, LLP (Purchaser's Counsel); Wells Fargo Bank, National Association (Trustee); and Montague DeRose and Associates LLC., (Financial Advisor).

Kommi/Lewis

Staff: Lakshmi Kommi - (619) 236-6928
Mark D. Blake – Chief Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 6:38 p.m. – 8:17 p.m.)

Motion by Madaffer to introduce the ordinance in Subitem A and to adopt the resolution in Subitem B. Second by Faulconer. Failed. Yeas-12578. Nays-346.

MOTION BY ATKINS TO CONTINUE TO TUESDAY, APRIL 22, 2008, FOR FURTHER REVIEW. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-335: Olivet Avenue Street Vacation, Project No. 128990. Application for a Coastal Development Permit and Right of Way Vacation, to vacate an approximate 524 square foot triangular shaped portion of excess right-of-way along the west side of the intersection of Olivet Avenue and Cabrillo Avenue. (La Jolla Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying an application for a Coastal Development Permit and Right of Way Vacation, to vacate an approximate 524 square foot triangular shaped portion of excess right-of-way along the west side of the intersection of Olivet Avenue and Cabrillo Avenue. The property is located adjacent to the rear of the lot at 1215 Virginia Way, within the RS-1-7 Zone, Coastal Overlay Zone (non-appealable), Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and within La Jolla Community Planning Area.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-738) CONTINUED TO TUESDAY, APRIL 22, 2008

Adoption of a Resolution certifying findings with respect to Coastal Development Permit No. 520542;

Granting Coastal Development Permit No. 520542 to Vincent and Heather Andreucetti, Owners/Permittees, under the terms and conditions as set forth in the attached Permit which is made a part of this resolution.

Subitem-B: (R-2008-741) CONTINUED TO TUESDAY, APRIL 22, 2008

Adoption of a Resolution certifying findings with respect to Public Right-of-Way Vacation No. 443998;

Vacating the street as more particularly described in the legal description marked as Exhibit "A," and as shown on Engineering Drawing No. 20711-B, marked as Exhibit "B," and on file in the Office of the City Clerk which are by this reference incorporated herein and made a part hereof;

Declaring that the City of San Diego as lead agency under the California Environmental Quality Act has determined the project to be exempt pursuant to California Code of Regulations Section 15305 because it is a minor alteration in land use;

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

Directing the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by her under seal, to be recorded in the Office of the County Recorder.

OTHER RECOMMENDATIONS:

The La Jolla Community Planning Association has recommended denial of this project.

In favor: 0

Opposed: 13

STAFF SUPPORTING INFORMATION:

EXECUTIVE SUMMARY:

The proposed Vacation is a portion of the public right-of-way along the east side of Olivet Avenue, between Exchange Place and Pearl Street, located to the rear of the lot at 1215 Virginia Way (Lot 11) and a small portion of the adjacent lot to the south at 1211 Virginia Way, Lot 12. The proposed area to be vacated is an approximately 524 square foot triangular shaped portion of excess right-of-way along the west side of the intersection of Olivet Avenue and Cabrillo Avenue. Approximately 142 square feet of the proposed vacated area fronts along the adjacent lot, Lot 12. The vacation of this portion of Olivet Avenue is required for the property owner/applicant to allow completion of a pending remodel of their existing residence. The area of the proposed vacation is excess right-of-way, and is improved with a landscaped area which appears as part of the property owner's rear and side yards. The portion to be vacated has never been utilized by public vehicular or public pedestrian activity.

The adjacent neighbor, south of the subject property, at 1211 Virginia Way has an existing gate at the rear of their property, which allows pedestrian access from their property across the public right-of-way to be vacated to Olivet Avenue. The adjacent neighbor has opposed the proposed project due primarily to their concern for the potential loss of pedestrian access.

They expressed that they would prefer that the area continue to be retained by the City rather than converted to the applicant's private ownership. In response the applicant has offered to grant and record a private pedestrian easement to this adjacent neighbor to resolve this issue. However, to date, the adjacent neighbor has not accepted that proposed solution.

The proposed Vacation will not alter vehicular, pedestrian or bicycle use along this portion of Olivet Avenue. The area of the Vacation would be within the required setback for the existing residence, thus no structure, except for a fence/wall could be placed within this area. The Vacation does not need to include any reservation for General Utility, Public Pedestrian Access or Non-Motor Vehicular Easements.

The Street Vacation qualifies as a summary vacation and a Planning Commission Recommendation is not required for this action. A Street Vacation may be summarily vacated as it does not contain public facilities, and the portion of the street to be vacated is excess and is not required for present or future use.

The required findings to approve the Street Vacation as contained in Attachment 4, can all be made in the affirmative. The area of the proposed vacation is unimproved excess right-of-way and there is no present or prospective public use for a public right-of-way. The portion of Olivet Avenue to be vacated is not a part of the Transportation Element of the General Plan or La Jolla/La Jolla Shores Local Coastal Program, and will not be detrimentally affected by the vacation. Olivet Avenue has been constructed to its ultimate width and the reservation area is no longer needed.

FISCAL CONSIDERATION:

All costs associated with the processing of this project are paid by the applicant through a deposit account.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The street vacation qualifies as a summary vacation and a Planning Commission Recommendation is not required for this action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The applicant presented this proposed project two different times to the La Jolla Community Planning Association. Both times the project was recommended for denial, due to the pedestrian access concerns raised by the adjacent neighbor. The second meeting was on December 6, 2007, and the La Jolla Community Planning Association voted 13-0-0 to recommend denial of the proposed action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Vincent and Heather Andreuccetti, Property Owner.

Broughton/Anderson/GG

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15305, minor alteration in land use.

Staff: Glenn Gargas – (619) 446-5142
Nina M. Fain – Deputy City Attorney

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:09 p.m.)

MOTION BY FAULCONER TO CONTINUE TO TUESDAY, APRIL 22, 2008, AT THE REQUEST OF THE APPLICANT FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S500: Extension of Agreement with Mercer Consulting for Additional Services Related to the Proposed Pension Plan.

(See memorandum from Jay Goldstone dated 3/17/2008.)

(Continued from the meeting of March 24, 2008, Item S400, at the request of Councilmember Frye, for further review.)

STAFF'S RECOMMENDATION:

Hold the first public hearing of the ordinance:

(O-2008-132) HEARING HELD

An Ordinance amending Ordinance No. O-19652 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2008 and

Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year", to transfer \$185,000 from the Risk Management Fund balance and to appropriate said \$185,000 to the Risk Management Department (Fund 50061, Dept. 084);

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$185,000 from the Risk Management Department (Fund 50061, Dept. 084) for purposes of funding additional services by Mercer Consulting related to the proposed pension plan;

Authorizing the Mayor to negotiate an amendment to the current agreement with Mercer Consulting for additional services related to the proposed pension plan in the amount of \$185,000.

STAFF SUPPORTING INFORMATION:

Like most state and local governments the City is challenged with providing and funding retirement and pension plans. In March 2007 the City issued a request for proposal (RFP) for selection of a consultant to address these issues.

Mercer Consulting was selected based on their familiarity with public and private sector retirement/pension plans and their successfully demonstrated ability to perform consulting work of a similar scope and nature.

The City entered into an agreement with Mercer Consulting to conduct a comprehensive analysis of the City's existing retirement and pension plans and to assist the City with plan design. Mercer has completed this assignment and the City has proposed the new plan to the City's labor organizations; however, additional services and meetings with Mercer and the labor organizations are required. Although these services were not part of the core requirements and deliverables they fall within the scope of work and were included in the RFP as optional consulting services, pricing included. Accordingly, a contract extension is required in order to complete the project and honor the City's obligations in the meet and confer process.

FISCAL CONSIDERATIONS:

The cost of the original contract was not to exceed \$250,000. This request is for an additional \$185,000, for a total not to exceed of \$435,000. Funding for this project is available in the Risk Management Fund, Fund 50061.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On March 4, 2008, City staff and Mercer presented the proposed pension plan design to the City Council in closed session.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

With the exception of sworn public safety employees, the proposed pension plan affects all new City employees hired after December 31, 2007.

VanDeweghe

Aud. Cert. 2800660.

Staff: Greg Bych - (619) 236-6651
Lori Thacker - Deputy City Attorney

NOTE: Today's action is the first public hearing. See the docket of Tuesday, April 15, 2008, for the second public hearing and the introduction and adoption of the Ordinance.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 8:18 p.m. – 8:46 p.m.)

ITEM-S501: Awarding Contract for Furnishing Office Supplies to All Departments in the City of San Diego.

(See memorandum from Councilmember Madaffer dated 2/22/2008.)

(Continued from the meeting of 3/24/2008, Item 200, at the request of Councilmember Frye, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-730) CONTINUED TO MONDAY, APRIL 21, 2008

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Staples Business Advantage to furnish office supplies on as-needed basis, and under the terms and conditions set forth in the Memorandum of Understanding;

Authorizing the expenditure of an amount not to exceed \$955,000 for Fiscal Year 2008, to provide funds for the above Memorandum of Understanding, provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Declaring that the above activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3) because the purchase is a continuing administrative or maintenance activity, and therefore not a project pursuant to Guidelines Section 15378(b)(2).

STAFF SUPPORTING INFORMATION:

As part of Purchasing & Contracting's strategic sourcing initiative, the four major office supply companies, Corporate Express, Office Depot, Office Max, and Staples, were contacted to provide proposals for supplying Office Supplies to the City. To be considered, the companies must have a Public Agency Agreement, environmentally friendly products and an established "Green" program, Desk Top Delivery (also known as Just-In-Time delivery), and on-line ordering and training. The proposal from Staples provides the best value for the City.

STAFF SUPPORTING INFORMATION: (Continued)

A yearly savings of \$179,000 over the City's previous Office Supplies contract, Bid No. 5217-02-A, is anticipated with Staples. The Staples On-Line ordering system and training program will be tailored to meet City requirements and will provide a seamless transition from the incumbent supplier's system to Staples' ordering system. Staples offers an additional price discount if the City spends more than targeted amounts in one contract year.

Staples is committed to being an industry leader in preserving our environment and offers over two thousand (2,000) products made with post-consumer recycled content. They support the City's environmental recycling and waste reduction programs and actively encourage recycling. City employees can bring their pagers, inkjet and toner cartridges, Personal Digital Assistants (PDA), and rechargeable batteries to Staples stores to be recycled.

EQUAL OPPORTUNITY PARTICIPATION AND OUTREACH:

This Contract falls within the requirements for the procurement of commodities and services. A Workforce plan was required and provided. Staples, Inc. has an established supplier diversity mentorship program that enlists assistance from MWBE's and regional Minority Councils. Their program strives to enhance diversity in their service suppliers and add value - not cost to the customer. In addition, the Equal Opportunity Contracting team will work with Purchasing & Contracting to establish ways to include small and disadvantaged businesses in these types of procurements as office supplies which has historically been a commodity where there are ready, willing and able small and disadvantaged businesses available.

FISCAL CONSIDERATIONS:

Authorize the estimated expenditure of \$955,000, including tax, for Fiscal Year 2008, and an annual estimated yearly cost amount of \$1,910,000 for each Option Year one through four (1-4), from Fund No. 50010, Department No. 810, Organization No. 5099, Object Account No. 3231 and Job Order No. 009001 for City Departments to purchase items on an as-needed basis, pending availability of funds, including tax and payment terms of Net 30 Days. Price escalation will not exceed 10% of the prices in effect at the end of each prior Contract year.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

City Council Resolution Number R-296368, adopted on April 22, 2002, approved the award of Bid No. 5217-02-A to contract, by the City's participation in the County of San Diego's Just-In-Time Office Supply Contract, with Corporate Express. The term of the contract was for an initial one (1) year period, with options to renew for four additional years.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Four potential suppliers were contacted. The bid was a strategic sourcing initiative utilizing Public Agency Agreements and, therefore, was not advertised publically or posted on the City's official web site.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All City Departments, citizens of the City of San Diego, and Staples are key stakeholders. The projected impact is the anticipated significant reduction of City expenses for office supplies.

KNOWN OPPOSITION IDENTIFIED:

Corporate Express submitted written opposition to the award process. Purchasing & Contracting's response, letter dated February 7, 2008, is enclosed. A memo provided to City Council by Corporate Express on March 4, 2008, is also enclosed. The Corporate Express memo contains errors. The Pricing Analysis is 56% of spend, not 36%. The NJPA program was not customized.

Rimes/Goldstone

Aud. Cert. 2800575.

Staff: Tammy Rimes - (619) 236-5921
Sanna R. Singer - Deputy City Attorney

FILE LOCATION: NONE

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

MOTION BY FRYE TO CONTINUE TO MONDAY, APRIL 21, 2008, FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S502: Public Meeting on the proposed expansion of the Adams Avenue Business Improvement District to permit testimony in support of or opposition to the expansion of the Adams Avenue Business Improvement District and the levying of assessment on such business in the proposed expanded area of the Adams Avenue BID.

(Normal Heights, Mid-City, Kensington and Talmadge Community Plan Area. District 3.)

NOTE: Public Hearing will be held on April 29, 2008.

STAFF'S RECOMMENDATION:

(O-2008-00) HEARING HELD

Hold a public meeting in order to take testimony on the expansion of the Adams Avenue Business Improvement District and the levying of assessment on such business in the proposed expanded area of the Adams Avenue BID.

STAFF SUPPORTING INFORMATION:

This is a public meeting on Adams Avenue BID as authorized by City Council at the City Council meeting of March 4, 2008.

At the March 4, 2008 meeting, the City Council:

1. Declared intent to expand the Adams Avenue Business Improvement District and to levy assessments.
2. Set April 1, 2008 as the public meeting date, to permit testimony in support of or opposition to the expansion of the Adams Avenue Business Improvement District and the levying of assessment on such business in the proposed expanded area of the Adams Avenue BID.

At the third Council date, scheduled for the City Council Meeting of April 29, 2008, the City Council will:

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

STAFF RECOMMENDATION: Approve the requested actions.

EXECUTIVE SUMMARY: An effort to expand the Adams Avenue Business Improvement District (AABID) to include the Kensington-Talmadge commercial area has been ongoing for a number of months under the auspices of the Kensington-Talmadge Business Association. The purpose of the expansion is to build on the synergy between the commercial areas along Adams Avenue and to leverage the available resources to better benefit the businesses in the area. This expansion also has the support of the Adams Avenue Business Association which manages the AABID, an area encompassing Adams Avenue from the 2400 block to I-15 and the adjoining side streets for one block north and south of Adams Avenue. The expansion would add the area along Adams Avenue between I-15 and 4248 Adams Avenue, and the adjoining side streets in the 4600 and 4700 blocks of Biona Drive, Edgeware Road, Kensington Drive, Marlborough Drive, Terrace Drive, Vista Street, and 42nd Street, and the 4100 block of Park Place.

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

San Diego currently has 19 designated districts located from La Jolla to San Ysidro, and Ocean Beach to the College Area.

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

Council Policy 900-07 also provides that City Council may proceed with a public hearing process to amend the BID ordinance and increase the assessment where: "an assessed value and numerical majority of those responding support the increase in the levels of assessment". A majority of the responding businesses, when counted numerically (74.5%) and when weighed by the amount of the proposed assessment (80.4%), supported the expansion of the AABID and the levying of an annual assessment. Given the support of the affected businesses, staff is bringing the expansion to City Council for approval as required by the Parking and Business Improvement Area Law of 1989. Since this expansion of the AABID would allow the City to levy an annual assessment on the newly included businesses, a multi-step hearing and noticing process is required by the 1989 Law and the Ralph M. Brown Act and is outlined above.

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

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

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

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

Kessler/Anderson/MDB

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:47 p.m. – 3:54 p.m.)

Testimony in favor by Margaret McCann and Richard Hanford.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 8:48 p.m. in honor of the memory of:

Margaret Ward as requested by Council President Pro Tem Madaffer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 8:46 p.m. – 8:48 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego