

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

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:05 a.m. Council President Peters recessed the meeting at 11:42 a.m. during an earthquake. Council President Peters reconvened the meeting at 11:47 a.m. with Council Members Young and Maienschein not present. The meeting was recessed by Council President Peters at 12:05 p.m.

The meeting was reconvened by Council President Peters at 2:12 p.m. with all Council Members present. Council President Peters recessed the meeting at 2:38 p.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 2:39 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 3:59 p.m. with Council Member Young not present. Council President Peters recessed the meeting at 5:24 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:29 p.m. Council Member Faulconer and Council Member Frye not present. Council President Peters recessed the meeting at 6:50 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 7:02 p.m. with Council Member Young and Council Member Maienschein not present and thereafter convened the Redevelopment Agency. Council President Peters reconvened the regular meeting at 8:48 p.m. with all Council Members present. Council President Peters recessed the regular meeting at 8:49 p.m. to reconvene the Housing Authority. Council President Peters reconvened the regular meeting at 8:57 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 9:45 p.m.

ATTENDANCE DURING THE MEETING:

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

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Hueso-present

Clerk-Maland (dlc/sr)

FILE LOCATION: MINUTES



ITEM-300: ROLL CALL

Clerk Maland called the roll:

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

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-2:

Barbara Winton commented on global warming.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Guy Winton commented on late night sessions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:46 a.m. - 10:47 a.m.)

PUBLIC COMMENT-4:

Nancelle Lauffer commented on the homeless.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. - 10:49 a.m.)

PUBLIC COMMENT-5:

Cricket Long commented on the budget.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-6:

Al Strohlein commented on the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. - 10:55 a.m.)

PUBLIC COMMENT-7:

Ron Boshun commented on the actions of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. - 10:57 a.m.)

PUBLIC COMMENT-8:

Phil Hart commented on audits.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-9:

Daniel Beeman commented on business practices.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:04 a.m. – 11:05 a.m.)

PUBLIC COMMENT-10:

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. - 11:08 a.m.)

PUBLIC COMMENT-11:

Ian Trowbridge commented on various concerns.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-12:

Joy Sunyata commented on the State of Emergency declarations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:11 a.m. - 11:14 a.m.)

PUBLIC COMMENT-13:

Easter Thompson commented on elder abuse.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:14 a.m. - 11:19 a.m.)

PUBLIC COMMENT-14:

Ted Patrick commented on a killing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:19 a.m. - 11:20 a.m.)

PUBLIC COMMENT-15:

Mignon Scherer commented on water, growth, and costs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:20 a.m. - 11:23 a.m.)

PUBLIC COMMENT-16:

Ardelle Matthews commented on the Southeastern Development Corp. (SEDC).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:23 a.m. - 11:26 a.m.)

PUBLIC COMMENT-17:

Elinor Rector commented on various concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:32 a.m. - 11:33 a.m.)

PUBLIC COMMENT-18:

Jarvis Ross commented on an obituary.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:33 a.m. - 11:34 a.m.)

PUBLIC COMMENT-19:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:34 a.m. - 11:37 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Young welcomed students from Bayview Charity Program.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:27 a.m.)

COUNCIL COMMENT-2:

Council President Peters welcomed students from Aaron Price Fellows. Council President Peters also announced the last day for staff members, Chris Cameron and Madeleine Baudoin and he also expressed well wishes for Keely Sweeney's upcoming wedding.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:27 a.m. – 10:28 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



[ITEM-30:](#) A Reason to Survive Day.

**MAYOR SANDERS', COUNCIL PRESIDENT PETERS', AND
COUNCILMEMBER FAULCONER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-78) ADOPTED AS RESOLUTION R-303978

Proclaiming July 29, 2008, to be "A Reason to Survive Day" in the City of San Diego in recognition of its dedication to bringing hope, healing, and self-confidence to children facing life challenges in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:11 a.m. – 10:16 a.m.)

MOTION BY FAULCONER 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:](#) University Heights Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-1174) ADOPTED AS RESOLUTION R-303979

Congratulating University Heights for its historic contributions over the past 120 years;

Proclaiming July 29, 2008, to be “University Heights Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:25 a.m.)

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



* ITEM-50: Second Amendment to Agreement with T.Y. Lin International for the Seismic Retrofit of the North Harbor Drive Bridge Over Navy Estuary. (Peninsula Community Area. District 2.)

CITY COUNCIL’S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/15/2008, Item 50. (Council voted 7-0. Councilmember Maienschein not present):

(O-2008-162) ADOPTED AS ORDINANCE O-19777 (New Series)

Authorizing the Mayor to execute, for and on behalf of the City, a Second Amendment to the Agreement with T.Y. Lin International in an amount not to exceed \$150,857 to finalize the Plans and Specifications and to provide support during construction, for CIP-53-038.1, Seismic Retrofit of the North Harbor Drive Bridge over Navy Estuary (Project), under the terms and conditions set forth in the Agreement;

Authorizing the appropriation and expenditure of an amount not to exceed \$150,857 from Fund 387141, Highway Bridge Program (HBP) from CIP-53-038.1, Seismic Retrofit of the North Harbor Drive Bridge over Navy Estuary, solely and exclusively, for the purpose of executing the Second Amendment to the Agreement with T.Y. Lin International, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

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

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-51: Extension of a Cooperative Agreement with Caltrans for Improvements Along State Route 15 in Mid-City. (Mid-City Community Area. District 3.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/15/2008, Item 51. (Council voted 8-0):

(O-2008-167) ADOPTED AS ORDINANCE O-19778 (New Series)

Authorizing the Mayor to execute an amendment to a Cooperative Agreement with Caltrans for improvements along State Route 15 in Mid-City, extending the termination of the Agreement by one year to June 30, 2009, under the terms and conditions set forth in the Agreement;

Declaring that this activity is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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



ITEM-52: Fifth Amendment to Agreement with Lee & Ro Consulting Engineers Inc., for the Point Loma Wastewater Treatment Plant Grit Processing Improvements Project. (Point Loma Community Area. District 2.)

(See Engineering and Capital Projects Department's 6/8/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2009-6) INTRODUCED, TO BE ADOPTED TUESDAY,
SEPTEMBER 2, 2008

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute a Fifth Amendment to the Agreement with Lee & Ro Consulting Engineers, Inc., for Grit Processing Improvements Project (the Amendment), under the terms and conditions set forth in the Amendment;

Authorizing an additional expenditure of an amount not to exceed \$1,276,759 from Fund 41508, CIP-45-943.0 Point Loma - Grit Processing Improvements, Metro Sewer Fund, to provide funds for Phase III to the Agreement with Lee & Ro Consulting Engineers, as amended;

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

Declaring this activity is covered under Environmental Impact Report (EIR) Addendum No. 42.0358 (Grit Processing Facilities Improvements). This activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental document adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA review pursuant to CEQA Guidelines Section 15060(c)(3).

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/25/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The Grit Processing Improvements Project (GIP) is located at the existing Point Loma Wastewater Treatment Plant (PLWTP). Presently the PLWTP has six aerated grit basins constructed between 1962 and 1988. The south grit tanks were part of the original PLWTP construction. The central and north pair of grit tanks was added in 1983 and 1988 respectively. This project will reconstruct the south grit tanks and its adjacent pump gallery; replace the head works building with a drive through facility and new grit processing equipment. It also includes an interim grit processing facility to allow processing to continue during construction.

Adequacy of the grit removal is a major issue because of the wear and tear the material causes on the down stream equipment and the decrease in treatment capacity and efficiency. It is estimated that PLWTP spends \$1,000,000 a year on grit removal from plant digesters. The material also effects the operations, maintenance and performance of the Metro Bio-solids Center.

The design for the original project was approved in December 2000 (Resolution No. R-294342) and the authorization to advertise and award given in June 2003 (Resolution No. R-298298). However, prior to the award, pilot testing for secondary wastewater treatment at the PLWTP was approved and conceptual layout of the secondary treatment facilities conflicted with the GIP project. To insure prudent spending it was decided to complete the secondary pilot testing

technology before proceeding with the proposed GIP. While the GIP was delayed a need to construct a portion of the project remained. The Lee & Ro GIP contract was modified to allow the Grit Aeration System (GAS) originally a portion of the GIP to be repackaged, advertised and bid under Resolution R-301217, March 10, 2004. The GAS was awarded and constructed in 2005 for \$1,905,000.

Amendment No. 5 will authorize FY 2009 Phase III of \$1,276,759 of which \$300,000 was previously authorized and the additional \$976,759 in this phase is for additional services.

This will allow for the repackaging and revised design of the GIP project. Since the original design the building codes have been dramatically updated. The new documents will incorporate all building code changes and the most recent technological advances.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Sub consultant Participation: \$112,500 Certified Firms (11.52%) \$ 50,000 Other Firms (5.12%)
Other: Workforce Report Submitted- Equal Opportunity Plan required.

Staff will monitor plan and adherence To Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

The total cost for professional engineering services with Lee & Ro Consulting Engineers, Inc., is \$3,911,121. Funding of \$2,934,362 was previously authorized and is available in CIP-45-943.0 Point Loma – Grit Processing Improvements, Fund 41508, Metro Sewer Utility Fund, and funding for the additional \$976,759 is available in CIP-45-943.0, Point Loma - Grit Processing Improvements, Fund 41508, Metro Sewer Utility Fund for this purpose.

The total cost for professional engineering services with Lee & Ro Consulting Engineers, Inc., of \$3,911,121 may be reimbursed approximately 80% by current or future debt financing. This agreement is scheduled to be phase funded thru FY2009. No future funding is anticipated for this agreement.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

Council approved this project on December 5, 2000, (R-294342, \$2,134,362). On February 13, 2002, Council approved Amendment #1 (C-10619), December 9, 2002, Amendment #2 (R-297457, \$800,000), June 20, 2005, Amendment #3 (OO-19391), and January 18, 2006, Amendment #4 (C-13612). The Committee on Natural Resources and Culture on June 25, 2008, consent motion by Councilmember Faulconer, second by Councilmember Peters. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Upon approval of Amendment No. 5, Lee & Ro Consulting Engineers, Inc., will receive an additional \$976,759 towards their contract, bringing the total contract amount to \$3,911,121. Funds for the construction contract estimated to be greater than \$30,000,000 for this project will be requested later at the time of bidding.

Boekamp/Jarrell

Aud. Cert. 2900026.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 9:13 p.m. - 9:15 p.m.)

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

* ITEM-100: Inviting Bids for the Peñasquitos Views Trunk Sewer Project. (Rancho Peñasquitos and Mira Mesa Community Areas. Districts 1 and 5.)

(See Engineering and Capital Projects Department's 6/18/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1122) ADOPTED AS RESOLUTION R-303980

Approving the plans and specifications for the construction of the Peñasquitos Views Trunk Sewer (Project) as advertised by the Purchasing and Contracting Department, on Job Order No. 177161;

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

Authorizing the expenditure of an amount not to exceed \$1,968,715.86 from Sewer Fund 41506, CIP-46-194.0, Annual Allocation-Trunk Sewer Rehabilitations, solely for the construction, contingency and Project related costs, in the following manner, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer:

- a) \$333,000 Current Appropriations; and
- b) \$1,635,715.86 from Fiscal Year 2009 appropriations contingent on City Council approval of funds for this purpose in the Fiscal Year 2009 CIP Budget;

Stating for the record that the information contained in the Mitigated Negative Declaration, Project No. 6624, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guidelines Section 15162 would warrant any additional environmental review in connection with approval of the Project;

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/25/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

Peñasquitos Views Trunk Sewer is part of the City of San Diego's Sewer Main Replacement Program as mandated by the Environmental Protection Agency (EPA). It includes the abandonment of approximately 5,765 linear feet of 12-inch and 15-inch sewer mains and the associated manholes in the Canyonside Community Park and Los Peñasquitos Canyon Preserve and installing approximately 1,500 feet of 18-inch sewer main. The existing easement will be abandoned and the pipes will be abandoned in-place to minimize the environmental impacts. The abandonment will include removing the cover and busting the top, drilling or breaking the bottom of the manholes, slurry sealing the manholes and the pipe and then filling the top of the manholes with soil. This is a common practice to abandon a pipe outside the trench area and there is no need to remove the existing pipe which is 10-feet deep on average to minimize environmental impacts. The existing mains were installed in 1968 and they are no longer meeting capacity. The replacement of these sewer mains will provide the community with a safe and reliable wastewater collection system that complies with EPA mandates.

The City of San Diego, as lead agency under CEQA, has prepared and completed a Mitigated Negative Declaration and Mitigation, Monitoring and Reporting Program covering this activity, Project No. 6624 dated November 27, 2006. Council passed Resolution R-302676 on June 4, 2007, approving this activity.

On February 25, 2002, Council passed Resolution R-296105 approving the Consultant Agreement with Rick Engineering Company for the design services of this project.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego-Prevailing wages do not apply to this contract.
Goals: 16% Mandatory subcontractor Participation Goal, 5% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 10% Advisory Participation Goal Other Business Enterprise (OBE).

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

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$2,322,867. Funding of \$354,151.14 was previously authorized by Council (R-296105) for a Consultant Agreement with Rick Engineering. Funding is available in the Enterprise Fund, CIP-46-194.0, Annual Allocation - Trunk Sewer Rehabilitations, Fund 41506, Sewer, for this purpose. The project costs for the sewer portion of \$1,968,715.86 may be bond reimbursed approximately 80% by current or future debt financing. The project is scheduled to use FY09 funding. No further funding is anticipated. The Auditor's Certificate will be provided prior to contract award.

PREVIOUS COUNCIL COMMITTEE ACTIONS:

The Committee on Natural Resources and Culture on June 25, 2008, consent motion by Councilmember Faulconer, second by Council President Peters. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During design, this project was presented to the community. Residents and businesses will be notified by mail at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again ten (10) days before construction begins by the contractor through hand distribution of the notices. Traffic control plans have been prepared for this project and will be implemented during the construction operations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

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

Boekamp/Jarrell

FILE LOCATION: WO#177161

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

- * ITEM-101: Inviting Bids for the Construction of Medians on Scripps Ranch Boulevard-Carroll Canyon Road to Aviary Drive. (Scripps Miramar Ranch Community Area. District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1180) ADOPTED AS RESOLUTION R-303981

Approving the plans and specifications for the construction of medians on Scripps Ranch Boulevard-Carroll Canyon Road to Aviary Drive (Project) as advertised by Purchasing and Contracting, on Work Order No. 523570;

Authorizing the Mayor, after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$1,100,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$1,500,000 from CIP-52-357.0, Scripps Ranch Boulevard-Carroll Canyon Road to Aviary Drive, Fund 79007, Scripps Miramar Ranch Facilities Benefit Assessment, solely and exclusively, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

Declaring that this project is exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Existing Facilities). (BID-K093547C)

STAFF SUPPORTING INFORMATION:

The Scripps Ranch Boulevard-Carroll Canyon Road to Aviary Drive project provides for the construction of fourteen feet wide landscaped center medians with left-turn pockets, additional pavement for the unimproved center area of Scripps Ranch Boulevard from Carroll Canyon Road to Aviary Drive, and striping of the street including Class II Bike Lanes and parking on both sides.

This project is consistent with the Scripps Miramar Ranch Community Plan and is in conformance with the City's Progress Guide and General Plan.

FISCAL CONSIDERATIONS:

Funds for this action, in the amount of \$1,500,000, are available from Fund 79007, Scripps Miramar Ranch Facilities Benefit Assessment, CIP-52-357.0, Scripps Ranch Boulevard - Carroll Canyon Road to Aviary Drive project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Council Resolution R-303243, dated December 4, 2007, initiated a Community Plan Amendment to the Scripps Miramar Ranch Community Plan to reclassify Scripps Ranch Boulevard from Carroll Canyon Road to Aviary Drive from four-lane major to a two-lane connector.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The project has been presented to the Community in different phases of planning and design.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (If applicable):

Scripps Miramar Ranch Community
Bicyclists who travel Scripps Miramar area

EQUAL OPPORTUNITY CONTRACTING:

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

Goals: 16% Mandatory Subcontractor Participation Goal, 5% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 10% Advisory Participation Goal Other Business Enterprise (OBE)

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

Boekamp/Jarrell

Staff: Brad Johnson - (619) 533-5120
Ryan Kohut - Deputy City Attorney

FILE LOCATION: CONT-HTA Engineering & Construction, Inc.

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-102: Inviting Bids for Sewer Pump Station 41 Improvements. (Mission Bay Park Community Area. Districts 2 and 6.)

(See Engineering and Capital Projects Department's 6/18/2008, Executive Summary Sheet.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2008-1163) ADOPTED AS RESOLUTION R-303982

Approving the plans and specifications for the construction of the Sewer Pump Station 41 Improvements (Project) as advertised by Purchasing and Contracting Department, on Job Order No. 175531;

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

Authorizing the expenditure of an amount not to exceed \$8,895,544, of which \$8,323,986 is from Sewer Fund 41506, CIP-46-602.0, Sewer Pump Station 41, and \$571,558 is from Sewer Fund 41506, CIP-46-193.0, Annual Allocation - Muni Pooled Contingency, solely for construction, contingency, and Project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer in the following manner:

- a) \$1,357,500 - Current Appropriations;
- b) \$2,927,051 from Fiscal Year 2009 appropriations, contingent on City Council approval of funds for this purpose in the Fiscal Year 2009 CIP Budget;
- c) \$3,194,151 from Fiscal Year 2010 appropriations, contingent on City Council approval of funds for this purpose in the Fiscal Year 2010 CIP Budget;
- d) \$1,416,842 from Fiscal Year 2011 appropriations, contingent on City Council approval of funds for this purpose in the Fiscal Year 2011 CIP Budget;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves. (BID-K084256C)

Subitem-B: (R-2008-1199) ADOPTED AS RESOLUTION R-303983

Declaring that the Revised Mitigated Negative Declaration, Project No. 52453, dated April 21, 2008, (Revised MND) for Sewer Pump Station 41 (the Project) on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.);

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

Finding that revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Project 52453 Revised MND, a copy of which is on file in the Office of the City Clerk and incorporated herein by this reference, is approved;

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

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/25/2008, NR&C voted 4 to 0 to forward without recommendation to the full City Council. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

Sewer Pump Station 41 is located at 2723 De Anza Road in Mission Bay Park. The existing pump station and force main was constructed in 1953. The project will restore and improve the reliability of the pump station and bring it up to current standards and regulations. The construction completion of this project is also mandated by the Environmental Protection Agency. The project will consist of constructing a new pump station, emergency overflow storage structure, 2,200 linear feet of primary and secondary force main to be located in the right-of-way and includes the abandonment of the original pump station and existing force main.

EQUAL OPPORTUNITY CONTRACTING:

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

Goals: 21% Mandatory Subcontractor Participation Goal, 7% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 13% Advisory Participation Goal Other Business Enterprise (OBE)

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

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$9,078,768. Funding of \$ 183,224 was previously authorized by Council (R-292033) and Council (R-296546) for the design and for additional consultant services. Additional funding of \$8,323,986 will be available in CIP-46-602.0, Sewer Pump Station 41, Fund 41506, Sewer, and \$571,558 will be available in CIP-46-193.0, Annual Allocation - Muni Pooled Contingency, Fund 41506, Sewer, for this purpose.

This project cost may be reimbursed approximately 80% by current or future debt financing. This project is scheduled to be phase funded over three fiscal years from FY2009 to FY2011. Contingent upon the availability of funds, the City Comptroller will issue an Auditor Certificate for each phase of the project.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS:

On August 2, 1999, Council (R-292033) executed an agreement contract with Dudek & Associates for the design of Sewer Pump Station 21 and Sewer Pump Station 41. On May 28, 2002, Council (R-296546) executed a First Amendment to the agreement with Dudek & Associates for additional consultant services.

This item was moved forward by the Natural Resources and Culture Committee without recommendation due to a question from the City Attorney's office. The question has been answered and is summarized in the attached memo dated July 14, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During the design phase this project was presented to the Mission Bay Park Community on February 4, 2003. A subsequent meeting has been scheduled for June 10, 2008. Residents and businesses will be notified by the City's Engineering & Capital Projects Department at least one (1) month before construction begins and by the contractor at least ten (10) days before construction begins through hand distribution of notices.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The key stakeholders are identified as the public and the municipality. The project impacts include improved reliability and an extended service life for the pump station.

Boekamp/Jarrell

FILE LOCATION: CONT-TC Construction Co, Inc.

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

- * ITEM-103: As-Needed Agreement with Southern California Soil & Testing, Inc., for Geotechnical Design Services. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1083)

ADOPTED AS RESOLUTION R-303984

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Southern California Soil & Testing, Inc., for As-Needed Engineering Design Services in an amount not to exceed \$500,000, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$1,000 from CIP-22-948.0 Santa Clara Recreation Center Replacement Study, Fund 302453, Capital Outlay-Sales Tax, solely and exclusively for the purpose of providing funds for the above Agreement and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

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

STAFF SUPPORTING INFORMATION:

The City currently does not have the capacity to prepare the geotechnical reports for various projects. A qualified and licensed consultant is being retained to provide this service. The City advertised the Contract and issued the Request for Proposal for As-Needed Geotechnical Engineering Design Services Agreement on September 17, 2007, in the San Diego Daily Transcript and in the City's website for bid and contract opportunities.

Twelve (12) engineering consultants submitted proposals on October 11, 2007. Eight (8) firms were short-listed to be interviewed by the selection panel based on their proposal and evaluation criteria in the request for proposal. On November 19-20, 2007, the short-listed firms were interviewed by the selection panel. Attached is a copy of the evaluation criteria used during the interviews and a list of the selection panel. Southern California Soil & Testing, Inc. was selected as the most qualified firm following a competitive selection and procurement process completed in accordance with the policies, procedures and guidelines in the City Council Policy 300-7, Consultant Services Selection, and the City's Administrative Regulation 25.60, Selection of Consultants for Work Requiring Licensed Architect and Engineering Skills and Other Related Professional Services. The City will utilize the expertise of Southern California Soil & Testing, Inc., to prepare the geotechnical reports in a timely and efficient manner. Southern California Soil & Testing, Inc., has the expertise, experience and personnel necessary to provide the professional services on an as-needed, hourly fee basis. The City will pay Southern California Soil & Testing, Inc., for performance of all Professional Services rendered in accordance with the Agreement, in an amount not to exceed \$500,000. Southern California Soil & Testing, Inc., engineers will employ sub-consultants. Attached you will find a list of their Sub-Consultants.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation:	\$200,000 Certified Firms (40%) \$50,000 Other Firms (10%) (Estimate based upon anticipated tasks that will be issued.)
Other:	Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. Information will be collected based upon each task that is issued.

FISCAL CONSIDERATIONS:

The City will pay Southern California Soil & Testing, Inc., for performance of all Professional Services rendered in accordance with this Agreement, in an amount not to exceed \$500,000. The City agrees to issue at least one task order with a minimum aggregate value of \$1,000 to Southern California Soil & Testing, Inc. Funding for the minimum guarantee amount of \$1,000 will come from CIP-22-948.0, Santa Clara Recreation Center Replacement Study, Fund 302453, Capital Outlay-Sales Tax, for this purpose. Future tasks will be funded from various City Department's budgets.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

There are no previous actions on this contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City staff will work with the community (if applicable) during the design of a Geotechnical Report study.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Upon approval of the Agreement, Southern California Soil & Testing, Inc., could receive up to \$500,000.

Boekamp/Jarrell

Aud. Cert. 2800746.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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



* ITEM-104: Consultant Agreement with Boyle Engineering Corporation for the Interstate-5/Sorrento Valley Road Interchange Improvements. (Torrey Pines Community Area. District 1.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2008-1156) ADOPTED AS RESOLUTION R-304010

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Consultant Agreement with Boyle Engineering Corporation for the first phase of professional services for CIP-52-765.0, Interstate-5/Sorrento Valley Road Interchange, for an amount not to exceed \$2,996,750;

Authorizing the expenditure of an amount not to exceed \$2,996,750 from CIP-52-765.0, Interstate-5/Sorrento Valley Road, of which \$1,300,000 is from Fund 38997, \$1,400,000 is from Fund 38937, and \$296,750 is from Fund 38934, for the purpose of executing the Consultant Agreement, contingent upon the City Auditor and Comptroller certifying that funds are available in the City Treasury;

Authorizing the City Auditor and Comptroller to return excess funds, if any, to the appropriate reserves;

Declaring that this activity is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15306 for Information Collection.

STAFF SUPPORTING INFORMATION:

The CIP-52-765.0 project provides for a reconfigured interchange at the Interstate-5/Sorrento Valley Road Interchange. The project is currently funded by Caltrans and will be designed and constructed in cooperation/coordination with Caltrans. A Project Study Report was previously prepared for the interchange, identifying several alternatives. This Phase 1 contract provides for preliminary engineering for development of a Project Report and CEQA and NEPA Environmental Documents. The future Phase 2 contract will continue the design process for final plans, specifications, and estimates.

FISCAL CONSIDERATIONS:

Funding for this action: \$2,996,750, is currently available in CIP-52-765.0. Currently, the project has received DEMO funds from SANDAG/Caltrans for \$3.394 million. Future grants have not yet been programmed.

PREVIOUS COUNCIL ACTIONS:

The funding and Cooperative Agreement with Caltrans for the Interstate-5/Sorrento Valley Road Interchange project were approved by Council on January 19, 2007 (R-302289).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Preliminary outreach has been conducted with the Sorrento Valley area stakeholders, and will continue throughout the development of the Project Report and Environmental Documents.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (If applicable):

Boyle Engineering Corporation, Wilson & Company, Inc., T.Y. Lin International, Helix Environmental Planning, Inc., Tierra Environmental, CIC Research, Hon Consulting, Scientific Resources Associated, Aguirre & Associates, Katz & Associates, Value Management Strategies, Inc., Ninyo + Moore, Garbini & Garbini, Hatch Mott MacDonald, Caltrans, SANDAG, and NCTD.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	Caltrans
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation:	\$270,304 Certified Firms (9.02%) \$1,379,520 Other Firms (46.03%)
Other:	Workforce Report Submitted — Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

Boekamp/Jarrell

Aud. Cert. 2800832.

Staff: Frank Gaines - (619) 533-4607

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:15 p.m. - 9:18 p.m.)

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

- * ITEM-105: Contract Change Order No. 1 with Neal Electric Company Inc., for Electrical System Upgrades, General Requirements Contract (GRC) 2006E Contractor License "C-10"-ESD-2006-001. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-23) ADOPTED AS RESOLUTION R-303985

Reaffirming Resolution No. R-301633 and authorizing the Mayor to execute the option extending for one year the term of Neal Electric Company, Contractor License "C-10"-ESD-2006-001, for electrical system upgrades at various City facilities;

Approving Change Order No. 1, dated May 28, 2008, issued in connection with the contract between the City and Neal Electric Company Inc., said contract having been filed with the City Clerk as Document No. RR-301633, together with the changes set forth, amounting to a net increase in the contract price of \$1,000,000 and an extension in contract time of 365 calendar days;

Authorizing the sources of funding for the above Change Order No. 1, expanded to include but not be limited to the Capital Improvement Program, Operation, and Operation & Maintenance accounts, and the expenditure of an amount not to exceed \$1,000,000 for Change Order No. 1, expended to include but not be limited by the following accounts: General Services Department Fund No. 30244, Job Orders 370689, 370690, 370692, 370693, 370695, 370699, 370700, 370701; and Fire Department Fund No. 10530; provided that the City Auditor and Comptroller certifies that the funds necessary for individual task orders are, or will be, on deposit with the City Treasurer;

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

STAFF SUPPORTING INFORMATION:

On July 18, 2006, the City Council authorized the Mayor, or his designee, to advertise and award the 2006E Contractor License “C-10”-ESD-2006-001 Contract (Resolution Number R-301633). The Engineering and Capital Projects Department advertised and opened bids on January 3, 2007, at which time, Purchasing and Contracting Division (P&CD) received two bids. Neal Electric Corporation was determined to be the apparent low bidder and P&CD awarded the contract to Neal Electric Corporation on March 8, 2007.

The GRC 2006E Contract initiated by ESD staff was originally intended for ESD energy upgrade Projects (lighting, motor controls) at existing City facilities. Since that time, Engineering and Capital Projects (E&CP) has conducted the Business Process Reengineering. Accordingly, E&CP has made ESD aware of additional energy saving projects at various existing City facilities including but not limited to projects on the Mayor’s deferred maintenance lists. Also, while conducting energy upgrades, ESD has encountered additional building maintenance needs. ESD’s energy upgrade funding source, approved through a separate Council Ordinance, O-19571 January 17, 2007, is a California Energy Commission Loan that is not an appropriate funding source for deferred maintenance improvements that do not save energy.

ESD has found that the GRC task oriented contracting is an effective means of performing building upgrades. Older City facilities have more energy opportunities because replacing their building lighting systems with newer technology will routinely provide energy savings. The additional funding options authorized by this action will leverage previously dedicated funding sources for deferred maintenance improvements with the energy funding to obtain additional energy savings by supplementing the existing funding. This whole building approach will enable installation of premium efficiency components where current budgeting only allows standard energy efficiency components, thereby decreasing life cycle costs. Also, providing multiple funding sources to upgrade City buildings promotes economy of scale to reduce project administration costs while leveraging multiple funding sources to expedite upgrades for older buildings that are in most need of maintenance. General Fund facilities, including Park and Recreation and Libraries along with Fire and Life Safety Service buildings have urgent needs to use GRC task contracts to complete City facility maintenance upgrades.

This action requests authorization to modify the existing GRC 2006E contract to execute City projects from all City departments and all funding sources. The resolution (R-301632) currently requires projects to be funded from only ESD Funds 370170 Division Fund No. 32044. Dept. 32044. This modification would apply to all types of funding sources including but not limited to CIP, Operation, Operation and Maintenance.

FISCAL CONSIDERATIONS:

The funding for projects executed under this contract is currently limited to an amount not to exceed \$1,000,000 from California Energy Fund 30250 Dept. 514. This action would exercise the option to increase the maximum contract value to an amount not to exceed \$2,000,000. This action would modify the source of funding to allow all City Funding Sources including CIP, Operation, or Operation and Maintenance funds to be executed under the GRC 2006E Contract. The GRC Contract contains a guarantee to issue the contractor a minimum value of total work worth \$50,000. To date, the value of work authorized has exceeded \$50,000; therefore, the minimum guarantee has been fulfilled and there is no need to encumber the \$50,000 minimum guarantee for this contract.

EQUAL OPPORTUNITY CONTRACTING:

This Agreement is subject to the City's Equal Opportunity Contracting Ordinance (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

Funding Agency: City of San Diego-Prevailing wages apply to this contract.

Other: Workforce Report Submitted-Equal Opportunity Plan is required and has been requested. Staff will monitor adherence to Non-Discrimination in Contracting Ordinance.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On July 18, 2006, Council Resolution R-301632 approved this agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

City staff will work with the community during the performance of the projects.

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

Blair/Heap

Staff: Tom Blair - (858) 492-6001
Frederick M. Ortlieb - Deputy City Attorney

FILE LOCATION: CONT-Neal Electric Co. Inc.

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-106: Contract Change Order No. 1 with Fuller Mechanical for Mechanical System Upgrades, General Requirements Contract (GRC) 2006M Contractor License “C-20”-ESD-2006-002. (Citywide.)

STAFF’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-24) ADOPTED AS RESOLUTION R-303986

Reaffirming Resolution No. R-301632, and authorizing the Mayor to execute the option extending for one year the term of Fuller Mechanical, Contractor License “C-20”-ESD-2006-002, for mechanical system upgrades at various City facilities;

Approving Change Order No. 1, dated May 28, 2008, issued in connection with the contract between the City and Fuller Mechanical, said contract having been filed with the City Clerk as Document No. RR-301632, together with the changes set forth, amounting to a net increase in the contract price of \$1,000,000 and an extension in the contract time of 365 calendar days;

Authorizing the sources of funding for the above Change Order No. 1, expanded to include but not be limited to the Capital Improvement Program, Operation, and Operation & Maintenance accounts, and the expenditure of an amount not to exceed \$1,000,000 for Change Order No. 1, expended to include but not be limited by the following accounts: General Services Department Fund No. 30244, Job Orders 370689, 370690, 370692, 370693, 370695, 370699, 370700, 370701;

and Fire Department Fund No. 10530; provided that the City Auditor and Comptroller certifies that the funds necessary for individual task orders are, or will be, on deposit with the City Treasurer;

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

STAFF SUPPORTING INFORMATION:

On July 18, 2006, the City Council authorized the Mayor, or his designee, to advertise and award the 2006M Contractor License “C-20”-ESD-2006-002 Contract (Resolution Number R-301632). The Engineering and Capital Projects Department advertised and opened bids on January 3, 2007, at which time, Purchasing and Contracting Division (P&CD) received three bids. American Mechanical DBA Fuller Mechanical was determined to be the apparent low bidder. P&CD awarded the contract to Fuller Mechanical on July 11, 2007.

The GRC 2006M Contract initiated by ESD staff was originally intended for ESD energy upgrade Projects (Heating Ventilation and Air Conditioning HVAC and building automation) at existing City facilities. Since that time, Engineering and Capital Projects (E&CP) has conducted the Business Process Reengineering. Accordingly E&CP has made ESD aware of additional energy saving projects at various existing City facilities including but not limited to projects on the Mayor’s deferred maintenance lists. Also, while conducting energy upgrades, ESD has encountered additional building maintenance needs. ESD’s energy upgrade funding source, approved through a separate Council Ordinance O-19571, January 17, 2007, is a California Energy Commission Loan that is not an appropriate funding source for deferred maintenance improvements that do not save energy.

ESD has found that the GRC task oriented contracting is an effective means of performing building upgrades. Older City facilities have more energy opportunities because replacing their HVAC building systems with newer technology will routinely provide energy savings. The additional funding options authorized by this action will leverage previously dedicated funding sources for deferred maintenance improvements with the energy funding to obtain additional energy savings by supplementing the existing funding. This whole building approach will enable installation of premium efficiency components where current budgeting only allows standard energy efficiency components, thereby decreasing life cycle costs. Also, providing multiple funding sources to upgrade City buildings promotes economy of scale to reduce project

administration costs while leveraging multiple funding sources to expedite upgrades for older buildings that are in most need of maintenance. General Fund facilities, including Park and Recreation and libraries along with and Fire and Life Safety Service buildings have urgent needs to use GRC task contracts to complete City facility maintenance upgrades.

This action requests authorization to modify the existing GRC 2006M contract to execute City projects from all City departments and all funding sources. The resolution (R-301632) currently requires projects to be funded from ESD Funds 370170 Division Fund No. 32044 Dept. 32044. This modification would apply to all types of funding sources including but not limited to CIP, Operation, Operation and Maintenance.

FISCAL CONSIDERATIONS:

The funding for projects executed under this contract is currently limited to an amount not to exceed \$2,000,000 from Energy Upgrades CEC Loan Fund 30250) Dept. 514. This action would exercise the option to increase the maximum contract value to an amount not to exceed \$2,000,000. This action would modify the source of funding to allow all City Funding Sources including CIP, Operation, or Operation and Maintenance funds to be executed under the GRC 2006M Contract. The GRC Contract contains a guarantee to issue the contractor a minimum value of total work worth \$50,000. To date, the value of work authorized has exceeded \$50,000 therefore, the minimum guarantee has been fulfilled and there is no need to encumber the \$50,000 minimum guarantee for this contract.

EQUAL OPPORTUNITY CONTRACTING:

This Agreement is subject to the City's Equal Opportunity Contracting Ordinance (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

Funding Agency: City of San Diego-Prevailing wages apply to this contract.
Other: Workforce Report Submitted-Equal Opportunity Plan not required.
Staff will monitor adherence to Non-Discrimination in Contracting Ordinance.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On July 18, 2006, Council Resolution R-301632 approved this agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

City staff will work with the community during the performance of the projects.

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

Blair/Heap

Staff: Tom Blair - (858) 492-6001
Frederick M. Ortlieb - Deputy City Attorney

FILE LOCATION: CONT-American Mechanical Systems

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-107: 2007 Community Oriented Policing (COPS) Technology Program – Interoperable Command, Control, and Communications (3Cs) Program.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-73) ADOPTED AS RESOLUTION R-303987

Authorizing the City Auditor and Comptroller to accept, appropriate and expend approximately \$6,000,000 in grant funds, authorized by United States Department of Justice/Community Oriented Policing (USDOJ/COPS).

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

STAFF SUPPORTING INFORMATION:

The City of San Diego has developed a proposal requesting \$6 million in federal funding for the continued implementation of a far southwest region, interoperable Command, Control and Communications (3Cs) program. The City's proposal has been accepted for funding.

With the continued support of the initial partner departments (the San Diego Police Department, San Diego Fire-Rescue Department, San Diego Sheriff Department, and CalFire San Diego Unit) 3Cs Phase 2B will expand the program to include first responder agencies at all levels of government operating in the far-southwest region, from local law enforcement and fire departments, to federal agencies.

The project will utilize the microwave infrastructure implemented in the original project phase, the existing governance structure with multiple levels of agency participation governed by a Memorandum of Understanding, and the lessons learned from the first phase of the project implemented from 2004-2007. The project has the regional support and project team infrastructure to successfully expand operations of the system to include more participants, and also to expand the number of public safety specific applications available on the network. Specific goals of the project are to:

1. Continue the growth and coverage of the network within San Diego County to include local public safety and fire agencies.
2. Improve redundancy/fault tolerance of the network by creating looping microwave paths.

STAFF SUPPORTING INFORMATION: (Continued)

3. Extend coverage of the 3Cs network to temporary Incident Command Posts (ICPs) in the field to provide reliable secure communication between the field and emergency operation centers.
4. Implement video conferencing and video streaming endpoints at all public safety agencies added to the network.
5. Improve coverage of aerial video down linking for improved real time situational awareness.
6. Improve training functionality over the network for use during non-emergencies.
7. Utilize the network in conjunction with inter-agency drills.
8. Implement regional public safety applications across the 3Cs network.

FISCAL CONSIDERATIONS:

The San Diego Metropolitan Statistical Area is authorized to apply for \$6 million. The mandatory match of \$2 million has been met by Office of the CIO Communications Division. The funds for this match were budgeted and expended in Fiscal Year 2008 in the form of milestone payments for the upgrade of the City's microwave network, and site improvements for

locations utilized by the 3Cs network. There is no requirement to continue grant-funded activities or expenditures after grant funds are depleted or terminated. Federal law requires that these funds supplement and not supplant funds otherwise available to law enforcement, and that grant-funded positions are not subject to local hiring freezes.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution No. R-300311 authorizing City to apply for, accept, expend and manage grant 200-4INWX-0005, which provided funding for development and implementation of the 3Cs system; Resolution No. R-302411 authorizing City to enter into an agreement with Enforcement Support Agency, Inc., for development, implementation, and refinement of the 3Cs system.

COMMUNITY PARTICPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Future contractors/consultants to be selected in compliance with City and Federal Regulations.

Lansdowne/Olen

Staff: Sara Diaz - (619) 515-2753
John C. Hemmerling - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-108: Drainage Easement Vacation in Lot 30 of Map No. 9694. (Mira Mesa Community Area. District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1184)

ADOPTED AS RESOLUTION R-303988

Vacating the portion of the drainage easement located within Lot 30 of Map No. 9694, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20825-B, marked as Exhibit "B," to unencumber his/her property under the procedure for the summary abandonment or vacation of public service easements, California Streets and Highways Code Section 8330 et seq. (and specifically Sections 8333 and 8335), and San Diego Municipal Code Section 125.1010(c);

Finding that the City Council finds that this action is exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 and/or 15305(c);

Declaring that the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by her under seal, to be recorded in the Office of the County Recorder. From and after the date of recordation of this Resolution, the abandoned drainage easement shall no longer constitute a public service easement. Upon such recordation, the abandonment is complete.

STAFF SUPPORTING INFORMATION:

This drainage easement vacation is located in the Mira Mesa Community Plan area, south side of Mira Mesa Boulevard easterly of Oberlin Drive. This project consists of vacating a portion of a drainage easement required for site development that was granted at no cost to the City per deed recorded January 31, 1985, as Instrument No. 85-033314 O.R. The existing facilities located within this easement have been superseded with a new drainage system as shown on Engineering Drawing No. 34708-D in an easement granted per Engineering Drawing 20813-B. There are no other public facilities located within the easement, and there is no present or prospective public use of the existing easement in its present location.

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

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

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

9755 Oberlin Drive Associates LLC

Broughton/Anderson

Staff: Geraldine Bollenbach - (619) 446-5417
Shirley R. Edwards – Chief Deputy City Attorney

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

FILE LOCATION: F-10289

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-109: Bird Rock Coastal Traffic Flow Improvements-Additional Funding. (La Jolla Community Area. District 1.)

STAFF’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-32) ADOPTED AS RESOLUTION R-303989

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$770,000 within Fund 30310, TransNet, from CIP-52-776.0, Prospect Street/Silverado Street Roundabout, to CIP-52-717.0, Bird Rock Coastal Traffic Flow Improvements (Project), contingent upon the adoption of the Fiscal Year 2009 Appropriations Ordinance and providing the City Auditor and Comptroller first certify that funds for this action are on deposit in the City Treasury;

Authorizing the appropriation and expenditure of an amount not to exceed \$770,000, in Fund 30310, TransNet, CIP-52-717.0, Bird Rock Coastal Flow Improvements from CIP-52-776.0 Prospect Street/Silverado Street Roundabout, solely and exclusively for the purpose of providing funds for Bird Rock Coastal Traffic Flow Improvements, contingent upon the adoption of the Fiscal Year 2009 Appropriations Ordinance and provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is covered under Project No. 6225 (Negative Declaration, dated 5/24/2005). The activity is adequately addressed in the environmental documents and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA review per CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

This project provides for the implementation of the improvements identified in the Bird Rock Area Traffic Management Plan that was approved on February 4, 2004, Manager's Report No. 04-028. The work includes roundabouts along La Jolla Boulevard and landscaped medians from Camino de la Costa to Forward Street, and other traffic calming improvements in the Bird Rock Community. The project was separated into two phases and the construction of Phase One is substantially complete. Phase Two primarily consists of the three roundabouts and the landscaped medians on La Jolla Boulevard. Construction for Phase Two began on September 26, 2007, and is expected to be substantially complete by the end of July, 2008. The total project cost for Phase One and Two combined was originally estimated at \$5,534,039.

During the course of construction for Phase Two, there were necessary modifications to the improvement plans, which increased the construction cost and required additional City support to administer the contract. These modifications were due to changed conditions, additional and

extra work, and were unknown at the time of plan preparation. For example, shallow utilities were discovered during grading activities for the new pavement section and they either required protection or relocation. The protection of these utilities resulted in substantial pavement reconstruction. In addition, the improvement plan elevations had to be redesigned and modified in the field in order to meet existing conditions and ensure that acceptable grades, drainage, and ADA requirements were met. Other additional scope of work and extra work items include the relocation of two bus stop pads and expediting the project to alleviate congestion during the summer.

FISCAL CONSIDERATIONS:

With this action total project cost for the Bird Rock Coastal Traffic Flow Improvements project will be \$6,304,039.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- February 9, 2004, (R-298883) Agreement with Project Design Consultant (PDC) for engineering services and approved the Traffic Management Plan concept.
- February 28, 2005, (R-300152) \$400,000 TDA Pedestrian Grant was approved by City Council.
- June 25, 2005, (R-300698) Accept, appropriate, and expend funds from SANDAG for the Pilot Smart Growth Incentive Program.
- August 2, 2005, (R-300744) The Bird Rock Maintenance Assessment District was approved by City Council.

STAFF SUPPORTING INFORMATION:

- November 3, 2006, (R-302013) Appropriate and expend \$1,400,000 for construction expenses, and authorized the execution of the first amendment to the Agreement with PDC for engineering services and approved the plans and specifications for Phase Two and execution of a construction contract with the lowest responsible bidder.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: TransNet - State prevailing wages apply.
Goals: 15% Mandatory Subcontractor Participation Goal, 5% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 9% Advisory Participation Goal Other Business Enterprise (OBE)

Other: Workforce Report Submitted. Staff will continue to monitor adherence to the Nondiscrimination Ordinance and bidder's compliance with SCOPE.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Bird Rock Traffic Task Force Committee, Bird Rock Beautification Committee, and the Bird Rock Community Council community groups are in full support of the project. The City has been working with these community groups along with the Bird Rock residents and business owners throughout the planning, design, and construction process.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

- West Coast General Corporation
- El Cajon Grading Corporation
- La Jolla Community Planning Association
- Bird Rock Traffic Task Force Committee
- La Jolla Traffic and Transportation Committee
- Federal Highway Administration

Boekamp/Jarrell

Staff: Marnell Gibson - (619) 533-3138
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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



[ITEM-110:](#) Authorization of Community Development Block Grant Funds for Code Enforcement and FY 2009 Reprogramming of Community Development Block Grant Funds for Council Districts 3, 4, 6, 7, and 8. (Districts 3, 4, 6, 7, 8, and Citywide.)

(See Report to the City Council No. 08-115.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-94 Cor. Copy) ADOPTED AS RESOLUTION R-304011

Finding that NCCD is in compliance with the CDBG eligibility requirements for code enforcement activities set forth in 24 CFR 570.202(c), based on the determination made by the City's Community Development Block Grant (CDBG) Program staff regarding Neighborhood Code Compliance Division's (NCCD's) compliance with the CDBG eligibility requirements for code enforcement activities set forth in 24 CFR 570.202(c), as stated in Report to the City Council No. 08-115;

Approving the reprogramming of CDBG funds for Council Districts 3, 4, 6, 7, 8, and Citywide, set forth in Attachment 1 to the Report, contingent upon certification of funds availability by the City Auditor and Comptroller;

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

Authorizing the City Auditor and Comptroller to appropriate and expend CDBG funds for code enforcement activities conducted by NCCD in FY 2009, including those allocations totaling \$330,667.31 to NCCD under Resolution No. R-303662, the allocation of \$224,943 (Fund 100/Dept. 75) to NCCD under this resolution, and any other allocations of CDBG funds to NCCD by the City Council and/or the Mayor in any subsequent reprogramming of CDBG funds in FY 2009, contingent upon certification of funds availability by the City Auditor and Comptroller and approval of the FY 2009 Appropriation Ordinance by the City Council and the Mayor;

Authorizing the City Auditor and Comptroller to appropriate and expend CDBG funds for those CDBG projects approved for funding under this resolution, contingent upon certification of funds availability by the City Auditor and Comptroller.

STAFF SUPPORTING INFORMATION:

- I. On May 6, 2008, City staff was directed to return to City Council in July 2008 to provide confirmation that code enforcement activities conducted by the Neighborhood Code Compliance Division is in compliance with the CDBG eligibility requirements set forth in 24 CFR 570.202(c). Subsequent to that meeting, the City of San Diego CDBG Program negotiated an MOU with NCCD that met the CDBG eligibility requirements and included a Statement of Work that addresses each of the following:
 - a. the code enforcement activities conducted by NCCD relate to inspections for state and/or local code violations, and the enforcement of such codes;
 - b. such code enforcement activities are conducted by NCCD in “deteriorating” or “deteriorated” areas, as defined by NCCD; and
 - c. such code enforcement activities are conducted by NCCD together with public or private improvements, rehabilitation, or services to be provided, which, when taken together, may be expected to arrest the decline of each defined deteriorating or deteriorated area.

Based on the details specified by NCCD, the CDBG Program has determined that NCCD’s administration of the proposed activities listed in the Statement of Work is in compliance with the CDBG eligibility requirements for code enforcement activities set forth in 24 CFR 570.202(c).

- II. This action will reprogram CDBG funds for Council Districts 3, 4, 6, 7, 8 and Citywide. All CDBG transfers are reprogrammed at the request of the respective Councilmember from each district and the Mayor. Some changes may be the result of cancelled projects, project savings, pending projects, utilization of reserve amounts, or a change in City priorities. This initial proposed FY 2009 CDBG reprogramming also includes changes that ensures compliance with the revised Council Policy 700-02 “Community Development Block Grant Program”.

FISCAL CONSIDERATIONS:

There is no impact to the General Fund from this action. Funds are available from the City of San Diego’s Community Development Block Grant Entitlement - Fiscal Year 2009, Program Year 34.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

FY 2009 CDBG Allocation; Council Action: May 6, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This reprogramming of CDBG funds was noticed in the San Diego Union Tribune newspaper on Saturday, June 21, 2008. The information was also posted on the City of San Diego's website (www.sandiego.gov/cdbg).

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents of low and moderate income communities, community-based organizations, community planning groups, and other community development organizations. In addition, the agencies and reserve accounts mentioned in the list of reprogrammed projects would be impacted.

Kessler/Anderson

Staff: Scott Kessler - (619) 236-6421

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:18 p.m. - 9:32 p.m.)

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

* ITEM-111: Grant Funds from the National Endowment for the Arts and Restricted Cash Donation from the San Diego Convention Center Corporation for Art Conservation Treatment of A Public Artwork. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-75) ADOPTED AS RESOLUTION R-303990

Authorizing the Mayor, or his designee, to apply for \$25,000 in National Endowment for the Arts (NEA), Access to Artistic Excellence Grant Funds for the conservation treatment of a public artwork in Fiscal Year 2009;

Authorizing the Mayor, or his designee, to submit all documents, negotiate and execute all agreements necessary, including any amendments, to comply with the grant requirements, and to carry out and administer all obligations, responsibilities and duties under the grant;

Authorizing the City Auditor and Comptroller, upon receipt of a fully-executed grant agreement, to accept, appropriate, and expend \$25,000 in NEA Access to Artistic Excellence grant funds in Fiscal Year 2009;

Authorizing the City Auditor and Comptroller, upon receipt of a fully-executed grant agreement, to appropriate and expend \$25,000 in matching funds. Matching funds will be provided out of the Commission's Fiscal Year 2009 programs and administrative budget;

Authorizing the City Auditor and Comptroller to establish a fund for the purpose of handling the accounting to facilitate the process of tracking revenue and expenditures for this program;

Authorizing the Mayor, or his designee, to submit all documents, and negotiate and execute all agreements necessary, including any amendments, to secure and administer a \$14,000 cash donation from the San Diego Convention Center Corporation restricted for the conservation treatment of the public artwork in Fiscal Year 2009;

Authorizing the City Auditor and Comptroller, upon receipt of a fully-executed charitable donation agreement, to accept, appropriate, and expend the \$14,000 cash donation from the San Diego Convention Center Corporation in Fiscal Year 2009;

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

STAFF SUPPORTING INFORMATION:

A recent conservation survey of the City of San Diego's (City) public artwork entitled Journey to Aztlán, conducted by a professional art conservator, indicated that the artwork by contemporary Mexican-American artists Einar & Jamex de la Torre is in urgent need of conservation. Journey to Aztlán, a mural, which is prominently located in downtown San Diego directly across from the San Diego Convention Center, depicts a surreal dreamscape incorporating pre-Columbian imagery and the myth of Aztlán from meso-America in a contemporary context. The grant from the National Endowment for the Arts (NEA) and matching funds/additional funds will be used to conserve this public artwork. By conserving Journey to Aztlán, the City continues to fulfill its mission to enhance the urban environment with public art for San Diegans and visitors alike and to ensure the preservation of a public artwork that celebrates the artistic and visual relationship between San Diego and Baja California, Mexico. The Commission has arranged for ConservArt Associates, Inc., to conduct the conservation treatment.

FISCAL CONSIDERATIONS:

The National Endowment for the Arts projects that \$25,000 will be granted to the City in Fiscal Year 2009 on condition that the City provides a funding match. Matching and additional funds will be provided out of the Commission for Arts and Culture's Fiscal Year 2009 programs and administrative budget contingent upon approval of the City's Fiscal Year 2009 budget. Additionally, the San Diego Convention Center Corporation projects \$14,000 will be donated to the City in Fiscal Year 2009 restricted for the conservation treatment of a public artwork from the City's art collection.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Hamilton/Michell

Aud. Cert. 2900038.

Staff: Victoria Hamilton - (619) 236-6778
Sanna R. Singer - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

- * ITEM-112: California Gang Reduction, Intervention, and Prevention (CalGRIP) Grant Application. (Portions of SDPD's Southeastern and Mid-City Divisions, including at least 20 specific neighborhoods where criminal gang members congregate, including Chollas View, Colina Del Sol, Encanto, Lincoln Park, Logan Heights, Paradise Hills, San Ysidro, Shelltown, Skyline, Southcrest and Valencia Park Community Areas. Districts All, Primarily 4 and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-62) ADOPTED AS RESOLUTION R-303991

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

Certifying that this authority includes the execution of all aspects of fund and program operation, including any amendments, extensions, augmentations, additional funding or renewals from the State of California for identical or closely related purposes; the City will comply with all application statutory or regulatory requirements;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend these funds up to \$400,000, if grant funding is secured;

Declaring that this authorization shall be valid for a period of up to five years, provided funding for this purpose is made available by the State of California;

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

STAFF SUPPORTING INFORMATION:

The grant proposal was prepared cooperatively by the San Diego Police Department Grants and Gangs Sections; the City of San Diego Commission on Gang Prevention & Intervention; the San Diego Workforce Partnership; and the San Diego Parks and Recreation Department.

The State of California Governor's Office of Emergency Services solicited proposals for CalGRIP (California Gang Reduction, Intervention and Prevention Program) for Cities. SDPD in cooperation with other departments and agencies prepared a proposal, and was selected for funding of \$400,000 for a two-year grant period. This grant will fund:

- Expanded Recreation Center hours and a contractual specialized trainer for City Recreation personnel (Prevention);
- A Contractual Community Options Specialist/Project Coordinator (MSW or equivalent) to partner with SDPD's Juvenile Gang Officer in accord with the County's Breaking Cycles plan to involve family and community with at-risk youth (Intervention and Diversion);
- A Criminal Intelligence Analyst, office equipment and Gang Detective Overtime (Suppression);
- A mandatory Project Evaluation by SANDAG.

FISCAL CONSIDERATIONS:

The grant requires a dollar-for-dollar match, which may be in-kind and may be met by federal grant resources. The match requirement will be met as follows:

- \$260,000 - San Diego Workforce Partnership Gang Initiative, a secondary-school-based gang prevention program that provides career exploration, paid work experience, educational supports and youth development; and youth development worker training for front-line youth service workers in the target region.
- \$20,000 - City of San Diego Commission on Gang Prevention & Intervention "Gang Prevention Coordination Assistance Program" (BJA Grant 2007-JVFX-0328). Personnel costs for organizing services and linkage to the SDPD Juvenile Services Team, Community Options Specialist, Criminal Intelligence Analyst, and the Gang Commission.
- \$120,000 - 75% of a San Diego Police Department Juvenile Services Officer.

No new City funds will be required for this matching commitment.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Many governmental and non-governmental agencies provided letters of support and cooperation for this project. In addition, community outreach for referrals, consultation and collaboration is a central feature of the proposal.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

If the proposal is selected for funding, contractual personnel will be selected, and all equipment/supplies will be acquired, in compliance with City/State regulations. As a professional project evaluation plan was required to be submitted along with the proposal, SANDAG was deemed the most qualified to work on the short deadline/contingency basis.

EQUAL EMPLOYMENT OPPORTUNITY:

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

Lansdowne/Olen

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

- * ITEM-113: California Integrated Waste Management Board Household Hazardous Waste/Used Oil Recycling Grants and Agreements for Fiscal Year 2009- Fiscal Year 2011.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-89) ADOPTED AS RESOLUTION R-303992

Authorizing the Mayor, or his designee, to apply for, negotiate with, execute agreements for, and accept grants from the California Integrated Waste Management Board with one-to three-year terms for Household Hazardous Waste Recycling and/or Used Oil Recycling for Fiscal Year 2009 through and including Fiscal Year 2011;

Designating as the person authorized, the Environmental Services Department Director, or Deputy Director, for and on behalf of the City, to conduct grant negotiations and execute all grant documents, including but not limited to: applications, agreements, amendments, and payment requests necessary to secure grant funding and to carry out and administer the City's obligations, responsibilities, and duties, under the terms and conditions of the grant(s) for Fiscal Year 2009 through and including Fiscal Year 2013;

Authorizing the City Auditor and Comptroller to establish a separate fund to track expenditures and receive grant-related reimbursements for eligible expenditures under the household hazardous waste and/or used oil recycling program;

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

STAFF SUPPORTING INFORMATION:

The California Integrated Waste Management Board (CIWMB) is authorized to award grants establishing local used oil and oil filter collection programs under the California Oil Recycling Enhancement Act. Additionally, CIWMB is authorized to award grants for new Household Hazardous Waste (HHW) program activities under the California Integrated Waste Management Act.

One of these grants, the three-year Used Oil Recycling Block Grant, is a non-competitive grant that is available to local jurisdictions, with funding levels allocated on a per capita basis. This grant and other HHW/Oil Recycling competitive grant opportunities are expected to be available through FY11, with the corresponding implementation of grant-related activities through FY13.

The City has received almost \$5,568,700 in CIWMB HHW/Oil Recycling Grants since 1994. As a result of the current block grants, residents recycled 82,200 gallons of used oil and 16,300 pounds of oil filters in FY07.

The City has applied for a three-year Used Oil Recycling Block Grant Cycle 14 that will be awarded in FY09 to continue service to San Diego residents. The City currently provides residents with three options to recycle used oil and oil filters: 1) auto product recycling events; 2) the HHW transfer facility that operates 47-48 Saturdays annually; and 3) more than 90 participating private business locations, such as AutoZone and Kragen auto parts stores, and oil change locations including Firestone, Jiffy Lube, Pep Boys, and Valvoline. The City has also implemented the required public education component and hotline services to inform residents of locally available used oil and oil filter recycling opportunities.

Approval of this request will allow the City to continue these activities and will provide flexibility to compete for additional funding to implement new or expanded used oil, oil filter, and other HHW recycling program activities.

FISCAL CONSIDERATIONS:

No matching City funds are required for this grant. The City anticipates receiving \$335,000 in CIWMB grant awards for each of the next three (3) years, beginning in FY09. The resources and revenue required to support these activities are currently budgeted, therefore no appropriation adjustment is needed. The grant awards will reimburse a portion of these activities. The CIWMB HHW/Oil Recycling Grants augment the HHW services funded by the Environmental Services, Metropolitan Wastewater, and Stormwater Pollution Prevention Departments.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Since 1994, the Environmental Service Department has applied for and received funds from the CIWMB for HHW/Oil Recycling Grants. The most recent Resolution R-300326, was adopted on April 18, 2005, and covered grant applications for FY06-FY08.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The program includes outreach to the community through ad placements, inserts in the *Pennysaver* and *Union Tribune*, calendar listings in community newspapers, and event flyers.

KEY STAKEHOLDERS:

The City of San Diego and its residents will continue to benefit by participating in these free recycling services, thereby reducing the likelihood of illegal dumping of oil into sewers and storm drains, and removing health and safety hazards from the community

Gonaver/Heap

Staff: Nora Varner - (858) 573-1294
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-114: Amendment No. 1 to Agreement with Enforcement Support Agency (ESA) for Project Management Services and Technical Support for the Regional Command and Control Communications (3Cs) Project.

(See Report to the City Council No. 08-117.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-72) ADOPTED AS RESOLUTION R-303993

Authorizing the Mayor, or his representative, to enter into an amendment to the agreement with Enforcement Support Agency (ESA) as outlined in the draft Statement of Work;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$544,000 in grant funds with ESA in the continuing development, implementation and refinement of this project, with \$459,321.95 from Urban Areas Security Initiative (UASI) monies and \$84,678.05 from Office of Community Oriented Policing Making Officer Redeployment Effective (COPS MORE) monies;

Directing the Chief of Police and the Director of the City's Office of Homeland Security to oversee this expenditure, in compliance with the grant program.

STAFF SUPPORTING INFORMATION:

On April 11, 2005, in Resolution R-300311, Council authorized the City to accept and expend a federal grant from the Office of Community Oriented Policing (COPS) Making Officer Redeployment Effective (MORE) for the development of a far- southwest region interoperable command and control Communications (3Cs) system. This system will improve public safety by adding capacity and linking area emergency services in an integrated, interoperable microwave communication network, establishing reliable and secure transport of high speed and high capacity voice and data communications during critical incidents.

On June 22, 2006, in Resolution R-301551, Council authorized City to accept and expend an Urban Areas Security Initiative (UASI) federal grant to assist high-density, high-threat urban areas in developing and maintaining advanced emergency incident response systems. One project of UASI is collaborating in developing and funding the 3Cs system.

On May 3, 2007, in Document RR-302411, Council authorized City to enter into an agreement with Enforcement Support Agency (Contractor) to provide project management services and technical support for the regional Command & Control Communications (3Cs) project.

The purpose of this action is to approve grant expenditures for the continuing development, implementation and refinement of the 3Cs system via project management services and technical consulting. Under the agreement, Enforcement Support Agency (ESA) will continue to lead project management and coordination, application layer planning, development of doctrine and end use specifications, and system documentation for Phase II of the 3Cs project. The ESA Work Elements are outlined in the Statement of Work.

All formal agreement and purchasing procedures will be accomplished in complete compliance with City, State, and Federal laws and regulations.

EQUAL EMPLOYMENT OPPORTUNITY:

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

This action will not result in any new unbudgeted expenditure. All expenditures authorized under this action will be grant funded, as follows:

- a. UASI 2007 grant funds: \$459,321.95. UASI Funds for this purpose are currently available. Funding is on a reimbursement basis; City expends funds, and invoices grantor for the expenditures; grantor will then reimburse City.
- b. COPS MORE 2004 USDOJ grant funds \$84,678.05. Funding is on a reimbursement basis; City expends funds, and invoices grantor for the expenditures; grantor will then reimburse City. COPS MORE 2004 Funds for this purpose are contingent upon formal approval of a budget modification by COPS. These funds will NOT be expended until such approval is received. Contractor understands that in the event said funds do not become available, he may cease work on this project after the available funds are depleted, and recommence work if the additional funds become available.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Council approved the acceptance and expenditure of the COPS MORE Interoperability 3Cs grant program in R-300311.

Council approved the acceptance and expenditure of the UASI grant program in R-301551.

Council approved previous grant funded expenditures for the 3Cs Project in R-301995 (Videoconferencing); and R-301636 (Harris Corporation). Neither of these was with ESA.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Enforcement Support Agency (ESA), 550 Fesler Street, Suite G-1, El Cajon, CA (619) 401-1120.

Impact: Approval of this action will allow the City to continue working with the contractor (ESA) that has been central to development and implementation of the Regional Interoperability Communications project since its inception. This is an exceptionally complex technological project, and this continuity is vital to seamless efficiency in project design and implementation.

Lansdowne/Olen

Aud. Cert. 2800887.

Staff: Sara Diaz - (619) 916-8157
Mary T. Nuesca - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-115 Safe Routes to School (SR2S) 7th Cycle-Florence Griffith Joyner Elementary School Grant Funding. (City Heights/Mid-City Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1152) ADOPTED AS RESOLUTION R-303994

Authorizing the Mayor, or designee, for and on behalf of the City, to make an application to Caltrans for Safe Routes to School grant funding for the Florence Griffith Joyner Elementary School (Project);

Authorizing the Mayor, or designee, to take all necessary actions to secure funds from Caltrans for the Safe Routes to School grant;

Authorizing the Mayor, or designee, to accept, appropriate and expend funds if grant funding is secured;

Amending Fiscal Year 2008 Capital Improvements Program Budget by adding CIP-62-337.0, Safe Routes to School Program - Florence Griffith Joyner Elementary School, to the Fiscal Year 2008 Capital Improvements Program;

Amending Fiscal Year 2008 Capital Improvements Program Budget by increasing the Fiscal Year 2008 Capital Improvements Program Budget in CIP-62-337.0, Safe Routes to School Program - Florence Griffith Joyner Elementary School, Safe Route to School grant funds, by an amount not to exceed \$860,130, contingent upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$860,130 from CIP-62-337.0, Safe Routes to School Program - Florence Griffith Joyner Elementary School, Safe Route to School project, contingent upon receipt of a fully executed program supplement;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$86,013 from CIP-59-021.0, Transportation Grant Matches, to CIP-62-337.0, Safe Routes to School Program - Florence Griffith Joyner Elementary School, within Fund 30300, TransNet, contingent upon the City Auditor and Comptroller first certifying fund availability and receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend \$86,013 from CIP-62-337.0, Safe Routes to School Program - Florence Griffith Joyner Elementary School, Fund 30300, TransNet, for the purpose of design and construction of the Project, contingent upon a fully executed grant agreement;

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

Declaring that this activity is categorically exempt from the California Environmental Quality Act (CEQA) as an Existing Facility pursuant to State CEQA Guidelines Section 15301.

STAFF SUPPORTING INFORMATION:

The Safe Routes to School is a state sponsored program that encourages increasing the number of children who walk or bicycle to school. The State of California accomplishes this by funding projects that remove the barriers that presently prevent children from doing so. It also promotes projects that improve safety and efforts which encourage walking and bicycling within a collaborative community framework. Due to the limited amount of money available, projects submitted need to vigorously compete with other similar projects state-wide.

For Fiscal Year 2008, The City of San Diego submitted two grant applications for funding considerations: Florence Griffith Joyner and John Marshall Elementary Schools. Florence Griffith Joyner Elementary School was selected by the state for funding in the amount of \$860,130.

Located in the City Heights Community, Florence Griffith Joyner Elementary School serves 618 students in grades K through Fifth, most of who walk or bike to school. On a daily basis, children and parents are faced with crossing several wide intersections in the vicinity of the school. The sidewalks are narrow or non-existent in some locations. One major intersection is in need of a new traffic signal for safer pedestrian crossing. The proposed improvements include installation of new sidewalks, intersection bulb-outs (to decrease the street crossing distances), speed humps, pedestrian ramps, and a new traffic signal.

FISCAL CONSIDERATIONS:

This action will authorize the application and acceptance of a grant in the amount of \$860,130 through the Safe Route to School Program. The grant requires a 10% match (\$86,013), which will be available from CIP-59-021.0, Transportation Grant Matches.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Groups supporting this action are: San Diego Police Department, Walk San Diego, San Diego County Bicycle Coalition, and City Heights Area Planning Committee, and the Florence Griffith Joyner Elementary School.

KEY STAKEHOLDERS: See above.

Boekamp/Jarrell

Aud. Cert. 2800861.

Staff: Deborah Van Wanseele - (619) 533-3012
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-116: Annual Election of Crossroads Redevelopment Project Area Committee Members. (College, Mid-City/City Heights, and Eastern Community Areas. Districts 4 and 7.)

(See memorandum from Janice Weinrick dated 7/3/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-33) ADOPTED AS RESOLUTION R-303995

Approving the Crossroads Redevelopment Project Area Committee consisting of persons named on Exhibit "A", a list of Project Area Committee (PAC) members receiving the highest number of votes, including those members noted by the City Clerk's verification of the election results of June 26, 2008, as constituting a representative PAC;

Finding the election results of June 26, 2008, and July 3, 2008, are valid and binding in accordance with the procedures as adopted by Resolution No. R-298702;

Directing the Redevelopment Agency of the City of San Diego to consult with and obtain the advice of the PAC pursuant to the provisions of the California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.);

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

STAFF SUPPORTING INFORMATION:

Formation Procedures of the Crossroads Project Area Committee (PAC) was authorized by the City Council on April 2, 2002 and modified on December 8, 2003. The purpose of the fifteen (15) members PAC is to advise the City Council and Redevelopment Agency on matters relating to the implementation of the Crossroads Redevelopment Project Area. The City Council approved the Crossroads Redevelopment Plan on April 22, 2003, and authorized the Crossroads PAC until 2009.

The City Council has previously ratified the PAC election results in accordance with the Crossroads PAC Formation Procedures.

On June 26, 2008, the Crossroads PAC conducted its Annual Election and meeting in accordance with the PAC Formation Procedures and PAC Bylaws. Nine (9) vacancies were available to be filled at the Annual Election. The categories included: One (1) Residential Tenant from the College and City Heights Area, one (1) Residential Owner/Occupant and one (1) Residential Tenant from the Eastern Area, two (2) Business/Property Owner from the Northern Area, three (3) Business/Property Owner from the Southern Area and, one (1) Community Organization at large.

In the category of Residential Tenant, City Heights and College Area and in the category of Business/Property Owner Northern a tie resulted. Per the PAC formation procedures ties are decided by a coin flip held by the City Clerk on July 2, 2008. All open and vacant positions were filled by this election.

The results of the June 26, 2008, PAC Election and July 2, 2008, are listed in Exhibit A. As of the time of the writing of this report, no protests or communication regarding the Crossroads PAC election have been received. If any protest or communications are submitted, they will be reported to the City Council and made available for public review at the Public Hearing. In accordance with the PAC Formation Procedures, City Council ratification of the Annual Election results is required.

FISCAL CONSIDERATIONS:

Administration of the Project Area Committee is funded through the Redevelopment Agency Annual Project Budget.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

City Council Ordinance No. O-19174, on April 22, 2003, authorized the Crossroads PAC for six-years. City Council Resolution No. 298702, on December 8, 2003, modified the PAC Formation Procedures.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Approximately 9,060 Crossroads Project Area Committee Election notices and Project Area maps were mailed to all residential owner-occupants, residential tenants, property and business owners, community organizations, and interested parties with addresses within the boundaries of the Crossroads Redevelopment Project Area. The mailings also included information about the PAC as well as general information about redevelopment.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The College Business Improvement District, College Area Community and the Mid-City Communities of City Heights and Eastern Area.

Weinrick/Anderson

Staff: Tracey Reed - (619) 236-6543
Huston Carlyle – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

- * ITEM-117: Retention of Latham & Watkins, LLP for Legal Services in the Case of *Scottsdale Insurance Company v. City of San Diego dba Mission Bay Mobile Home Park*.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1175) ADOPTED AS RESOLUTION R-303996

Authorizing the City Attorney to retain Latham & Watkins LLP for the provision of legal services in *Scottsdale Insurance Company v. City of San Diego dba Mission Bay Mobile Home Park, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL*, in an amount not to exceed \$100,000;

Authorizing the City Auditor and Comptroller to expend up to \$100,000 from the Public Liability Fund on this matter.

SUPPORTING INFORMATION:

\$100,000 has been approved for this matter in Closed Session. In the Closed Session Meeting of June 24, 2008, the City Council voted on Item CS-3, *Scottsdale Insurance Company v. City of San Diego dba Mission Bay Mobile Home Park, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL*, to approve retention of Latham & Watkins to defend the City. The motion was made by Councilmember Frye and the second by Councilmember Atkins. The motion passed 7 to 0 with Councilmember Young absent.

FISCAL CONSIDERATIONS:

The City shall compensate Latham & Watkins LLP based on its hourly rates for consulting services. This Request has a not-to-exceed amount of \$100,000 and will be borne by the Public Liability Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This is the initial request for approval of services for the above listed matter. The firm of Latham & Watkins LLP previously has provided other legal services to the City.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Latham & Watkins LLP

Tomanek

Aud. Cert. 2900044.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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



* ITEM-118: Consideration of Salary Increase for Independent Budget Analyst.

(See memorandum from Council President Peters dated 7/18/2008.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

(R-2009-118) ADOPTED AS RESOLUTION R-304012

City Council Consideration of salary increase for the Independent Budget Analyst;

Directing the City Attorney to prepare the appropriate resolution in accordance with Charter Section 40.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:36 p.m. – 9:39 p.m.)

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

* ITEM-119: Excusing Council President Scott Peters from the City Council Meetings of July 7 and 8, 2008.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-31) ADOPTED AS RESOLUTION R-303997

Excusing Council President Scott Peters from attending the regularly scheduled City Council meetings of July 7 and 8, 2008, because he was on vacation on the dates of those meetings.

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-120: Excusing Councilmember Tony Young from attending the June 17, 2008, City Council Meeting.

COUNCILMEMBER YOUNG’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-76) ADOPTED AS RESOLUTION R-303998

Excusing Councilmember Tony Young, from attending the regularly scheduled City Council meeting of June 17, 2008, because he was ill.

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-121: Jacobs International Teen Leadership Institute Day.

MAYOR SANDERS’ AND COUNCIL PRESIDENT PETERS’ RECOMMENDATION:

Adopt the following resolution:

(R-2009-69) ADOPTED AS RESOLUTION R-303999

Proclaiming July 15, 2008, to be “Jacobs International Teen Leadership Institute Day” in the City of San Diego in recognition of the positive global impact the Jacobs International Teen Leadership Institute brings to the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-122: San Diego Surf Cup Days.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-63) ADOPTED AS RESOLUTION R-304000

Proclaiming July 26 to July 28, 2008, August 2 to August 4, 2008, and November 28 to November 30, 2008, to be "San Diego Surf Cup Days" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-123: Wells Fargo Bank Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-28) ADOPTED AS RESOLUTION R-304001

Commending Wells Fargo Bank for the imprint it has had on San Diego's LGBT community;

Proclaiming July 14, 2008, to be "Wells Fargo Bank Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-124: National Stand Down Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-29) ADOPTED AS RESOLUTION R-304002

Commending the National Coalition for Homeless Veterans for annually organizing National Stand Down Day;

Proclaiming July 12, 2008, to be "National Stand Down Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-125: Dr. Keith Vrhel Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-35) ADOPTED AS RESOLUTION R-304003

Commending Dr. Keith Vrhel for the imprint he has had on San Diego's LGBT community;

Proclaiming July 14, 2008, to be "Dr. Keith Vrhel Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-126: Laura Mustari Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-36) ADOPTED AS RESOLUTION R-304004

Commending Laura Mustari for the imprint she has had on San Diego's LGBT community;

Proclaiming July 14, 2008, to be "Laura Mustari Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

* ITEM-127: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-890) ADOPTED AS RESOLUTION R-304005

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: 10:31 a.m. – 10:40 a.m.)

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



ITEM-128: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-54) ADOPTED AS RESOLUTION R-304013

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

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

COUNCIL ACTION: (Time duration: 9:32 p.m. – 9:32 p.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-not present, Hueso-yea.

- * ITEM-129: 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-2008-1113) ADOPTED AS RESOLUTION R-304006

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: 10:31 a.m. – 10:40 a.m.)

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

- * ITEM-130: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-868) ADOPTED AS RESOLUTION R-304007

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 Local Emergency Regarding the
Landslide on Mount Soledad

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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



ITEM-330: Ballot Measure: Prohibition of Alcohol on Beaches and In Shoreline Parks. (La Jolla, Pacific Beach, Mission Beach, Peninsula, and Mission Bay Community Areas. Districts 1 and 2.)

COUNCIL PRESIDENT PETERS' AND COUNCILMEMBER FAULCONER'S RECOMMENDATION:

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

Subitem-A: (O-2009-14) ADOPTED AS ORDINANCE O-19779 (New Series)

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Special Election consolidated with the Statewide General Election to be held on November 4, 2008, one proposition amending Chapter 5, Article 6, Division 0, of the San Diego Municipal Code by amending Section 56.54 relating to alcohol consumption in certain areas.

Subitem-B: (R-2009-113) ADOPTED AS RESOLUTION R-304008

A resolution directing the City Attorney to prepare a ballot title and summary of the proposed ballot measure for inclusion in the voter pamphlet and to deliver the ballot title and summary to the Office of the City Clerk, Elections Section, no later than August 18, 2008;

Directing the City Attorney to prepare an impartial analysis of the proposed ballot measure for inclusion in the voter pamphlet and to deliver the impartial analysis to the Office of the City Clerk, Elections Section, no later than August 18, 2008;

Directing the Mayor to prepare, in consultation with the Independent Budget Analyst, a fiscal impact analysis of the proposed ballot measure for inclusion in the voter pamphlet and to deliver said analysis to the Office of the City Clerk, Elections Section, no later than August 18, 2008;

Authorizing _____ to sign and file a written argument in support of the ballot measure for inclusion in the voter pamphlet and to deliver said argument to the Office of the City Clerk, Elections Section, no later than August 21, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:45 a.m. – 12:03 p.m.)

MOTION BY FAULCONER 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-331: Continuing Provisions of Legal Services for Former and Current City Officials and Staff Related to Securities and Exchange Commission, District Attorney, and U.S. Attorney's Investigations.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-22) ADOPTED AS RESOLUTION R-304014

Authorizing an additional amount not to exceed \$125,000 to pay attorney's fees for the representation of past and present City employees related to their participation in interviews and proceedings, including compliance with subpoenas, and in responding to the Securities and Exchange Commission (SEC) report, related to investigations by the SEC, United States Attorneys' Office, and the San Diego District Attorney's Office;

Authorizing the City Auditor and Comptroller to allocate and expend \$125,000 across all funds using an allocation based upon full-time equivalent salaries, and authorizing the City Auditor and Comptroller to appropriate and expend \$94,037.50 from the Public Liability Fund to cover the General Fund portion of the costs, to pay the above described attorney's fees;

Declaring that newly-represented employees or former employees must make use of legal counsel already familiar with and engaged to assist other City clients on the financial disclosures investigation matters, and that, in the event this requirement is not satisfactory to the employee or former employee, that individual shall be required to request a separate authorization for their retention of legal counsel;

Declaring that the authorization for the above attorney's fees is to be suspended if criminal charges are brought against any past or present City employee, and that the City shall reserve its right to terminate the payment of fees and seek reimbursement of fees paid in the event that criminal charges are brought against any past or present employee, or if a conviction is obtained.

SUPPORTING INFORMATION:

Requested action relates to additional funding for representation of employees and former employees for the ongoing Securities and Exchange Commission (SEC) and the United States Attorney's Office (USAO) investigations.

In February of 2004, the SEC and the USAO informed the City of San Diego (City) that they were undertaking investigations into certain financial disclosure practices by the City and the roles of certain employees and former employees.

These investigations are ongoing, with each agency requesting and/or issuing subpoenas requiring City employees to appear for interview and/or testimony. In addition, City employees also responded to the SEC report. In order to facilitate the conduct of necessary interviews and testimony, and yet provide necessary advice to affected City employee witnesses, the City Council, acting pursuant to the discretion provided by Government Code Section 995.8, has determined that it is in the best interests of the City to provide independent representation to employees, staff members and certain former employees.

The funds allotted for the representation thus far are \$3,550,000, apportioned among a number of represented individuals, and appropriated as a result of eleven requests: \$250,000 (AC 2401177, dated June 17, 2004); \$75,000 (AC 2500664, dated November 14, 2004); \$150,000 (AC 2500688, dated January 25, 2005); \$200,000 (AC 2500802, dated March 7, 2005); \$350,000 (AC 2501122, June 28, 2005); \$500,000 (AC 2600236, dated October 11, 2005); \$450,000 (AC 2600542, dated January 18, 2006); \$250,000 (AC 2600902, dated June 13, 2006); \$750,000 (AC 2700396, dated November 21, 2006); \$150,000 (AC 2800040, dated July 19, 2007); and \$425,000 (AC 2800425, dated December 4, 2007).

Over thirty current and former City employees have requested and/or retained outside legal counsel and have submitted bills to be reviewed and processed by the City Attorney's Office. These totals do not include elected officials, the Mayor, Council, and some of their staff.

On May 13, 2008, Council voted, Item 330, R-303689, to deny payment of the above attorney's fees to four former employees (Ryan, Webster, Vattimo, and Frazier) and suspended a decision as Mr. Uberuaga pending further review by the City Attorney, since the SEC brought charges against these individuals.

The City Attorney's Office will discuss the decision to request to continue to pay the payment of further fees for Mr. Uberuaga in a separate action.

The current outstanding invoices are approximately \$75,000 for representation up to April 7, 2008, the date the Securities and Exchange Commission (SEC) filed a Complaint against five individuals. If the case continues several past and present City employees might incur additional costs, which are difficult to determine at this time.

FISCAL CONSIDERATIONS:

The Council is being asked to authorize an additional amount not to exceed \$125,000 to pay attorney's fees for the representation of past and present City employees related to their participation in interviews and proceedings, including compliance with subpoenas, and in responding to the SEC report, related to investigations by the SEC, United States Attorneys' Office, and the San Diego District Attorney's Office.

The City Council authorizes the City Attorney to reserve the City's right to terminate the payment of fees and seek reimbursement of fees paid in the event that criminal charges are brought against any past or present employee, or if a conviction is obtained.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

As described above, there have been numerous Council actions approving outside counsel fees for counsel retained related to the ongoing SEC/USAO investigations into City finances.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Various law firms representing over thirty current and former City employees.

Tomanek

Aud. Cert. 2900046.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 8:57 p.m. – 9:13 p.m.)

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



ITEM-332: Provision of Legal Services for Former City Official Michael Uberuaga to Securities and Exchange Commission, District Attorney, and U.S. Attorney's Investigations.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-70) NOTED AND FILED

Authorizing an amount not to exceed \$435,000 to pay attorney's fees for the representation of Michael Uberuaga related to his participation in interviews and proceedings, including compliance with subpoenas, and in responding to the Securities and Exchange Commission (SEC) report, related to investigations by the SEC, United States Attorneys' Office, and the San Diego District Attorney's Office;

Authorizing the City Auditor and Comptroller to allocate and expend \$435,000 based upon the allocation methodology of full-time equivalent salaries and authorizing the City Auditor and Comptroller to appropriate and expend \$327,250.50 from the Public Liability Fund to cover the General Fund portion of the costs, to pay the above described attorney's fees;

Declaring the City shall reserve its right to terminate the payment of fees and seek reimbursement of fees paid in the event that a conviction is obtained.

SUPPORTING INFORMATION:

Requested action relates to additional funding for representation of the former City Manager, for the ongoing Securities and Exchange Commission (SEC) and the United States Attorney's Office (USAO) investigations.

In February of 2004, the SEC and the USAO informed the City of San Diego (City) that they were undertaking investigations into certain financial disclosure practices by the City and the roles of certain employees and former employees.

These investigations are ongoing, with each agency requesting and/or issuing subpoenas requiring City employees to appear for interview and/or testimony. In addition, City employees also responded to the SEC report. In order to facilitate the conduct of necessary interviews and testimony, and yet provide necessary advice to affected City employee witnesses, the City Council, acting pursuant to the discretion provided by Government Code Section 995.8, has determined that it is in the best interests of the City to provide independent representation to employees, staff members and certain former employees.

The funds allotted for the representation thus far are \$3,550,000, apportioned among a number of represented individuals, and appropriated as a result of eleven requests: \$250,000 (AC 2401177, dated on June 17, 2004); \$75,000 (AC 2500664, dated November 14, 2004); \$150,000 (AC 2500688, dated January 25, 2005); \$200,000 (AC 2500802, dated March 7, 2005); \$350,000 (AC 2501122, June 28, 2005); \$500,000 (AC 2600236, dated October 11, 2005); \$450,000 (AC 2600542, dated January 18, 2006); \$250,000 (AC 2600902, dated June 13, 2006); \$750,000 (AC 2700396, dated November 21, 2006); \$150,000 (AC 2800040, dated July 19, 2007); and \$425,000 (AC 2800425, dated December 4, 2007).

Over thirty current and former City employees have requested and/or retained outside legal counsel and have submitted bills to be reviewed and processed by the City Attorney's Office. These totals do not include elected officials, the Mayor, Council, and some of their staff.

On April 7, 2008, the SEC filed a "*Complaint for Violation of the Federal Securities Laws,*" (Federal District Court Case No. 08 CV 0621 DMS LSP) against Defendants Michael T. Uberuaga (Uberuaga), the former City Manager; Edward P. Ryan (Ryan), the former City Auditor and Comptroller; Patricia Frazier (Frazier), the former Deputy City Manager for Finance; Teresa A. Webster (Webster), the former Assistant City Auditor and Comptroller; and Mary E. Vattimo (Vattimo), the former City Treasurer. The SEC alleges that Uberuaga, Ryan, Frazier, Webster, and Vattimo acted recklessly in failing to disclose material facts to investors and to rating agencies.

On August 8, 2006, Kroll, Inc. and Willkie Farr & Gallagher LLP, issued their "*Report of the Audit Committee of the City of San Diego.*" The Report in its, "*Conclusions as to Individual Culpability,*" found that evidence supports a determination Ryan, Frazier, Webster, and Vattimo acted with wrongful intent, and that Uberuaga was negligent.

On May 13, 2008, Council voted, Item 330, R-303689, to deny payment of attorney's fees to four former employees (Ryan, Webster, Vattimo, and Frazier) and suspended a decision as to Mr. Uberuaga pending further review by the City Attorney, since the SEC brought charges against these individuals.

Upon further deliberation and discussion with outside counsel the City Attorney believes that the City should continue to pay the fees and cost of representation of Mr. Uberuaga.

Mr. Uberuaga is represented by McKenna Long & Aidridge LLP and the current outstanding invoices are approximately \$75,000 for representation since April 7, 2008, the date the SEC filed a Complaint, through May 31, 2008. The estimated fees for the next six months are \$360,000. Therefore, we are requesting a total of \$435,000 be authorized.

FISCAL CONSIDERATIONS:

The Council is being asked to authorize an amount not to exceed \$435,000 to pay attorney's fees for the representation of Michael Uberuaga related to his participation in interviews and proceedings, including compliance with subpoenas, and in responding to the SEC, related to the Complaint by the SEC, and other proceedings by the United States Attorneys' Office, and the San Diego District Attorney's Office.

The City Council authorizes the City Attorney to reserve the City’s right to suspend and to terminate the payment of fees and seek reimbursement of fees paid in the event that a conviction is obtained.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

As described above, there have been numerous Council actions approving outside counsel fees for counsel retained related to the ongoing SEC/USAO investigations into City finances. This request is solely for the representation of Michael Uberuaga.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Law firm of McKenna Long & Aldridge LLP.

Tomanek

Aud. Cert. 290045.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:13 p.m. – 9:13 p.m.)

Motion by Hueso to adopt. Second by Peters. Failed. Yea-1, 8; Nay-2, 4, 5, 7; recused-3, 6.

ITEM-333: City Council Response to the Grand Jury Report “Waste Not, Want Not – Recycle Now!”

(See Independent Budget Analyst Report No. 08-76.)

INDEPENDENT BUDGET ANALYST’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-74) ADOPTED AS RESOLUTION R-304015

Approving and adopting as its own the response to the 2007-2008 San Diego County Grand Jury Report filed May 8, 2008, and titled “Waste Not, Want Not – Recycle Now,” as set forth in IBA Report No. 08-76 dated July 16, 2008;

Authorizing and directing the Council President, on behalf of the San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court, no later than August 6, 2008.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 8:57 p.m. – 8:57 p.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-334: Agreements and Related Actions to the Implementation of the Grantville and Centre City Redevelopment Project Areas. (Centre City, Navajo, and Tierrasanta Community Plan Areas. Districts 2 and 7.)

(See Redevelopment Agency Report No. RA-08-20/RTC-08-096.)

STAFF’S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-) ADOPTED AS RESOLUTION R-304016

A resolution 1) Making certain findings and determinations pursuant to Health and Safety Code Section 33445 with respect to the Transit Improvements in the Centre City Redevelopment and Grantville Redevelopment Project areas, 2) approving a Cooperation Agreement relating to the funding of the Transit Line improvements by and between the City of San Diego and the Redevelopment Agency of the City of San Diego, by using tax increment and/or Land Disposition proceeds in an amount of \$31,360,000, and 3) making certain findings on the Environmental Review completed for the Project.

Subitem-B: (R-2009-) ADOPTED AS RESOLUTION R-304017

A resolution 1) Making certain findings and determinations pursuant to Health and Safety Code Section 33445 with respect to the Joint Projects in the Grantville Redevelopment Project areas, 2) approving a Cooperation Agreement relating to the funding of the Joint Projects by and between the County of San Diego and the Redevelopment Agency of the City of San Diego, by using tax increment and/or Land Disposition proceeds in an amount of \$7,840,000, and 3) making certain findings on the Environmental Review completed for the Project.

Subitem-C: (R-2009-) ADOPTED AS RESOLUTION R-304018

A resolution 1) Making certain findings and determinations pursuant to Health and Safety Code Section 33445 with respect to the North Embarcadero Public Improvements and Facilities, 2) approving an Agreement for Cooperation between the Redevelopment Agency of the City of San Diego and the County of San Diego relating to the funding of North Embarcadero Public Improvements and Facilities by using the Redevelopment Agency of the City of San Diego's tax increment and/or Land Disposition proceeds in an amount of \$31,360,000, and 3) making certain findings on the Environmental Review completed for the Project.

Subitem-D: (R-2009-) ADOPTED AS RESOLUTION R-304019

A resolution approving a Cooperation Agreement relating to the Affordable Housing Credit and allocation transfer by and between the Redevelopment Agency of the City of San Diego, the City of San Diego, and the County of San Diego pertaining to the transfer of affordable housing credits by the City of San Diego to the County of San Diego in an affordable housing credit amount not to exceed \$9,800,000 to satisfy the regional housing needs allocation of the County of San Diego.

NOTE: This is a Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency Agenda of July 29, 2008, for a companion item.

Staff: Tracy Reed - (619) 236-6543

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 8:48 p.m. – 8:49 p.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-nay, Madaffer-yea, Hueso-yea.



ITEM-335: La Cresta Right-of-Way Vacation, Project No. 151444. (Peninsula Community Plan Area. District 2.)

A Vacation of a 10-foot wide portion of unimproved excess public Right-of-Way along 3875 & 3885 La Cresta Drive, in the Peninsula Community Planning Area, to allow reconstruction of two existing residential garages. This Right-of-Way is no longer required by the City of San Diego for La Cresta Drive.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-51) ADOPTED AS RESOLUTION R-304020

Declaring that the Council of the City of San Diego finds that:

- a) there are no present or prospective uses for the public right-of-way either for a public facility or the purposes for which they were originally acquired, or for any other public use of a like nature that can be anticipated; and
- b) the public will benefit from the vacation through improved utilization of land; and
- c) the vacation does not adversely affect any applicable land use plan and is consistent with the General Plan or an approved Community Plan; and
- d) the public street system and the other public purposes for which the right-of-way was originally acquired will not be detrimentally affected by this vacation;

Vacating a portion of La Cresta Drive located between Bernice Drive and Centraloma Drive in the Peninsula Community Plan area, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20847-B, marked as Exhibit "B";

Exempting this action from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301(1);

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

OTHER RECOMMENDATIONS:

On June 19, 2008, the Peninsula Community Planning Board voted 10-1-0 in favor of the Right-of-Way Vacation, with no recommended conditions.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

The vacation of portions of La Cresta Drive within the Peninsula Community Plan area.

STAFF RECOMMENDATION:

APPROVE Public Right-of-Way Vacation No. 534617.

EXECUTIVE SUMMARY:

The project site includes two single family residences at 3875 and 3885 La Cresta Drive, located between Bernice Drive and Centraloma Drive in the Peninsula Community Plan Area. The applicants have requested the vacation of portions of La Cresta Drive to facilitate the reconstruction of private garages currently located approximately 9.5 feet within the public right-of-way. La Cresta Drive was constructed more easterly than originally envisioned and the reserved public right-of-way is now no longer required.

Pursuant to the San Diego Municipal Code and Subdivision Map Act, to approve the requested vacations, the following four findings must be made.

1. There is no present or prospective use for the purpose for which the right of way was originally acquired.
2. The public will benefit from the vacation through improved utilization of land.
3. The vacation is consistent with the General Plan or an approved Community Plan.
4. The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

City staff have confirmed that there is no present or prospective use for the right-of-way for which it was originally acquired, and that no public use of a like nature is anticipated.

The vacations would allow for the two applicants to rebuild garages constructed in 1931, which are now crumbling due to age. The fronts of the garages are located near the existing sidewalk, and their repair would ensure public safety at this location. The Peninsula Community Plan identifies this area for single family residential use. As this proposed vacation would support that designation, the project is consistent with the community plan. City staff have determined that the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

FISCAL CONSIDERATIONS:

No cost to the city. The applicant has deposited funds to cover project processing costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

No previous City Council action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 19, 2008, the Peninsula Community Planning Board voted 10-1-0 in favor of the Right-of-Way Vacation, with no recommended conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Norman Walker and Brian Cegelski, property owners.

Broughton/Anderson/MD

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301(1), existing facilities.

Staff: Morris Dye – (619) 446-5201
Marianne Greene – Deputy City Attorney

FILE LOCATION: STRT-J-2985 (39)

COUNCIL ACTION: (Time duration: 2:37 p.m. – 2:38 p.m.)

MOTION BY FAULCONER 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-336: 2551 Worden Tentative Map; application for a Tentative Map to allow the conversion of 29 existing residential apartment units into condominiums on a 1.10-acre site located at 2551 Worden Street, in the RM-3-7, Airport Environs, Airport Approach and Coastal Height Limit Overlay Zones. (Peninsula Community Plan Area. District 2.)

Matter of approving, conditionally approving, modifying or denying an application for a Tentative Map to allow the conversion of 29 existing residential apartment units into condominiums, an Easement Abandonment to allow the vacation of unused on-site utility easements and a waiver of the requirement to underground the existing overhead utilities on a 1.10-acre site located at 2551 Worden Street, in the RM-3-7 Zone and the Airport Environs, Airport Approach and Coastal Height Limit Overlay Zones, within the Peninsula Community Plan area.

Should the condominium conversion project should be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the City and until a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(Tentative Map No. 265665/Easement Abandonment No. 499428/Project No. 84000.)

(Continued from the meeting of February 5, 2008, Item 337, and April 21, 2008, Item 204; last continued at the request of the Mayor, for further review.)

NOTE: Hearing open. No testimony taken on 2/5/2008 and 4/21/2008.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-573) ADOPTED AS RESOLUTION R-304021

Adoption of a Resolution adopting the findings with respect to Tentative Map No. 265665; supported by the minutes, maps and exhibits, all of which are incorporated by reference;

That pursuant to California Government Code Section 66434(g), the following public service easements and street reservation, located within the project boundaries as shown in Tentative Map No. 265665, shall be vacated, contingent upon the recordation of the approved final map for the project;

That Tentative Map No. 265665/Easement Vacation No. 499428 is granted to Charles Warner, Applicant/Subdivider and Lintvedt, McColl & Associates Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

OTHER RECOMMENDATIONS:

Planning Commission on November 15, 2007, voted 7-0 to approve.

Ayes: Schultz, Garcia, Griswold, Ontai, Otsuji, Naslund, Smiley

The Peninsula Community Planning Group has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a Tentative Map to allow the conversion of 29 existing residential rental units into condominiums and an Easement Vacation to allow the vacation of several unused public service and street reservation easements at 2551 Worden Street in the Peninsula Community Plan area.

STAFF RECOMMENDATION:

1. **Approve** Tentative Map No. 265665; and
2. **Approve** Easement Vacation No. 499428; and
3. **Approve** the requested waiver of the requirement to underground the existing overhead utilities.

EXECUTIVE SUMMARY:

The following is a brief summary of the project background and issues. Please refer to the attached Report to the Planning Commission for more detailed information (Attachment 2). The existing two-story, 29-unit apartment building was constructed in 1970 and consists of 12 one-bedroom units and 17 two-bedroom units with 31 onsite parking spaces. A Tentative Map to allow the conversion of existing units to condominiums would typically require a Process Four, Planning Commission decision. However, this project includes a request to vacate several unused public service and street reservation easements, which elevates the project to a Process Five, City Council decision.

This project is subject to the condominium conversion regulations that became effective June 13, 2006, with the exception of the parking regulations, based on the City Council's specific adoption language for the "new" condominium conversion regulations. These regulations include additional landscape requirements, the preparation of a building conditions report, provision of onsite inclusionary housing, additional public noticing and parking. Based on the adopted language and project timing, all of these new regulations apply to this project, with the exception of the parking regulations.

City staff has reviewed and approved the Building Conditions Report and landscape plan for this project. As required by the current condominium conversion regulations, the project has been conditioned to set aside at least 10 percent of the units for households with an income level at or below 100 percent of the Average Median Income (AMI).

The requested Tentative Map would include the vacation of several unused public service and street reservation easements that are located within the project site. These easements include a 10-foot wide public utility easement located towards the front of the site along Worden Street, a 10-foot wide drainage easement located along the north side of the existing building and a 35-foot street reservation easement located at the northeastern corner of the property. City staff has reviewed the requested easement vacations and determined that the easements are not being utilized, are no longer required for their original intended use and staff is supportive of the requested vacations.

San Diego Municipal Code Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights-of-way. City staff has determined the undergrounding waiver request qualifies under the guidelines of Council Policy 600-25, *Underground Conversion of Utility Lines at the Developer's Expense* and recommends approval of the requested waiver.

The project as proposed is in conformance with all applicable regulations. The Planning Commission voted unanimously to recommend approval of the project and City Staff also recommends approval of the project.

FISCAL CONSIDERATIONS:

All processing costs associated with this project are collected from a deposit account funded by the project applicant, Mr. Charles Warner.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On November 15, 2007, the Planning Commission voted 7-0, on consent, to recommend approval of the project as proposed to the City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 17, 2005, the Peninsula Community Planning Committee voted 7-1-2 to recommend denial of the project. Concerns raised by Planning Group included the amount of parking provided, the age of the building and possible need for physical upgrades and that no affordable units were being provided onsite. No recommended project conditions were provided. The Peninsula Planning Group provided a letter to the Planning Commission reiterating their recommendation that the project not be approved (Attachment 5). As discussed in the staff report, the project complies with the applicable parking regulations. Also, because this project is subject to the new condominium conversion regulations, affordable housing must be provided onsite and the required repaired identified in the Building Conditions Report must be completed prior to Final Map approval.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Mr. Charles Worden, Property Owner; Lintvedt, McColl & Associates, Engineer

Broughton/Anderson/PG

NOTE: This activity is exempt from CEQA pursuant to Section 15301(k) (existing facilities) of the State CEQA Guidelines.

Staff: Paul Godwin – (619) 446-5103
Andrea Dixon – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:33 p.m. – 9:36 p.m.)

Testimony in opposition by Joy Sunyata.

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



ITEM-337: University Towne Center. Amending the Progress Guide and General Plan, the University Community Plan, rezone portions of CC-1-3 (Community Commercial) to CR-1-1 (Commercial Regional), Vesting Tentative Map with summary vacations of utility, pedestrian and non-motor vehicular easements and public right-of-way to create 36 commercial lots and a maximum of 300 residential condominiums, Master Planned Development Permit (MPDP) and Site Development Permit, amending Planned Commercial Development (PCD) Permit No. 83-0117, and an update for the North University City Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2009, for the redevelopment and renovation of the existing 1,061,400-square-foot Westfield University Towne Center (UTC) regional shopping center. (University Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying an application for an amendment to the Progress Guide and General Plan, the

University Community Plan, rezone portions of CC-1-3 (Community Commercial) to CR-1-1 (Commercial Regional), Vesting Tentative Map with summary vacations of utility, pedestrian and non-motor vehicular easements and public right of way to create 36 commercial lots and a maximum of 300 residential condominiums, Master Planned Development Permit (MPDP) and Site Development Permit, an amendment to Planned Commercial Development (PCD) Permit No. 83-0117, and an update for the North University City Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2009, for the redevelopment and renovation of the existing 1,061,400-square-foot Westfield University Towne Center (UTC) regional shopping center. The proposed project would be the renovation and expansion of retail uses by 610,000 to 750,000 square feet of new retail; the development of 250 to 300 multi-family residential units; on-site parking facilities and local region transportation improvements; the expanded development of a regional transit center for bus, taxi, and light rail services; a new pedestrian bridge crossing La Jolla Village Drive, west of Towne Center Drive; and park facilities in support of the residential development. The land use scenarios in the MPDP would be restricted to a mixture of retail and an option for residential uses that would not exceed 17,800 cumulative average daily trips (ADTs) and 256 in-bound AM peak hour/778 out-bound PM peak hour trips. The approximate 75.86-acre UTC site is located south of La Jolla Village Drive, west of Towne Center Drive, east of Genesee Avenue, and north of Nobel Drive. Environmental Impact Report No. 2214. Report No. PC-08-057

*** Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.**

(FEIR LDR No. 41-0159/MMRP/PG&GP/CPA/VTM No. 293788 with Summary Vacations/MPDP No. 4103/SDP No. 293783/RZ.)

STAFF'S RECOMMENDATION:

Adopt the resolutions in Subitems A, B, C, and D; and introduce the ordinance in Subitem E:

Subitem-A: (R-2009-9) ADOPTED AS AMENDED AS RESOLUTION R-304022

Adoption of a Resolution certifying that Environmental Impact Report No. 2214 has been completed in compliance with the California Environmental Quality Act of 1970 (CEQA) and State CEQA Guidelines; Adopting the Findings, the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program as it relates to the University Towne Center project;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2008-1213) ADOPTED AS AMENDED AS RESOLUTION R-304023

Adoption of a Resolution approving an amendment to the General Plan and the University Community Plan for the Westfield University Towne Center Revitalization project.

Subitem-C: (R-2008-1212) ADOPTED AS AMENDED AS RESOLUTION R-304024

Adoption of a Resolution approving Vesting Tentative Map No. 293788 with summary vacations of the right-of-way and utility easements for the University Towne Center project.

Subitem-D: (R-2008-1214) GRANTED PERMIT, ADOPTED AS
RESOLUTION R-304025

Adoption of a Resolution granting Master Planned Development Permit No. 4103/Site Development Permit No. 293783, an amendment to Planned Commercial Development Permit No. 83-0117, for the University Towne Center project.

Subitem-E: (O-2008-172) INTRODUCED, TO BE ADOPTED ON
TUESDAY, SEPTEMBER 2, 2008

Introduction of an Ordinance of the Council of the City of San Diego changing 69.76 acres located south of La Jolla Village Drive, west of Towne Center Drive, east of Genesee Avenue, and north of Nobel Drive, within the University

Community Plan Area in the City of San Diego, California, from the CC-1-3 (Commercial-Community) Zone to the CR-1-1 (Commercial Regional) Zone, as defined by San Diego Municipal Code Section 131.0503; and repealing Ordinance No. O-11612 (New Series), adopted May 27, 1975, of the City of San Diego insofar as the same conflicts herewith.

OTHER RECOMMENDATIONS:

Planning Commission on June 12, 2008, voted 5-1-1 to approve.

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

The University Community Planning Group (UCPG) on May 13, 2008, voted 11-3-1 and again on June 10, 2008, voted 14-2-1 to recommend denial of the project. The UCPG denial was based upon the project not complying with the adopted Community Plan.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of the University Towne Center project, a request for the development of the phased redevelopment and renovation of the existing 75.86-acre Westfield University Towne Center (UTC) regional shopping center, located south of La Jolla Village Drive, west of Towne Center Drive, east of Genesee Avenue, and north of Nobel Drive in the University Community Plan area.

STAFF RECOMMENDATIONS:

1. ADOPT resolution and CERTIFY Environmental Impact Report No. 2214, ADOPT the Mitigation Monitoring and Reporting Program, and ADOPT the Findings and Statement of Overriding Consideration;
2. ADOPT resolutions amending the Progress Guide and General Plan, and the University Community Plan;

- 3.
4. ADOPT resolutions and APPROVE Vesting Tentative Map No. 293788 with summary vacations of utility, pedestrian and non-motor vehicular easements and public right of way, Master Planned Development Permit No. 4103, and Site Development Permit No. 293783; and
5. ADOPT ordinance to rezone 69.76 acres from CC-1-3 to CR-1-1.

EXECUTIVE SUMMARY:

This project proposes the phased redevelopment and renovation of the existing 1,061,400-square-foot University Towne Center (UTC) regional shopping center. The proposed project includes the renovation and expansion of retail uses by up to 750,000 square feet, and the development of a maximum of 300 multi-family residential units in a structure(s) not to exceed 293 feet in height. The land use scenarios in the proposed permit would be restricted to a mixture of retail with an option for residential uses not to exceed 17,800 cumulative Average Daily Trips (ADTs), with 256 in-bound AM peak hour and 778 out-bound PM peak hour trips. The project proposes 7,163 parking spaces in a mixture of structured and surface parking. Additional project features would include a relocated and expanded bus transit center, the reservation of right-of-way for the proposed transit center and planned extension of a light rail transit line, a new pedestrian bridge crossing La Jolla Village Drive located west of Town Center Drive, and park facilities in support of the residential development.

The relocation and construction of the transit center will benefit the North University area. The anticipated construction cost for the transit center is approximately \$14.0 million and does not include the value of the property. Draft conditions for the UTC redevelopment and renovation project would allow for the applicant to seek reimbursement by any appropriate mechanism including Facilities Benefit Assessment (FBA) funds or other regional funding. Collectively, and through the process to amend the North University Public Facilities Financing Plan and FBA, the City, SANDAG, the applicant, and the University community will determine the fair share of the funding required to finance the community's needed transit center.

During the public hearing on May 22, 2008, the Planning Commission requested the applicant consider modifying the project's features related to pedestrian networks, streetscape and frontages, urban parks/plaza street amenities, building height, and the subsequent substantial conformity review process. The Planning Commission continued the project to June 12, 2008 and the applicant revised their project features as recommended, with notable changes restricting the maximum number of residential units to 300 and the height of residential structures not to exceed 293 feet above grade (Attachment 2 and 3).

The project continues to comply with the applicable sections of the Municipal Code and adopted City Council policies. City staff has prepared resolutions, ordinance, and the permit for the project and recommends approval.

FISCAL CONSIDERATION:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 12, 2008, the Planning Commission recommended the City Council certify the Final Environmental Impact Report No. 2214, adopt the Mitigation Monitoring and Reporting Program, the applicant's Findings and Statement of Overriding Considerations, and approve the project with the applicant's modifications. The Planning Commissioners cited reasons to support the project due to the applicants' sustainability commitment, the fact that both the existing mall and the University Community Plan are outdated, the site is designated as a high density urban node in the newly adopted General Plan, and the proposed project and design features will transform the mall into an urban mall consistent with the newly adopted General Plan. In addition, the Planning Commissioners motion included conditions to delete "where possible" on page 4 of the Master Planned Development Permit General Design Guidelines to ensure inclusion of street level retail, and to require the City's Public Notices be mailed rather than published in the newspaper for subsequent Process Two, Substantial Conformance Reviews.

The Motion made by Commissioner Golba, second by Commissioner Naslund. Passed by a 5-1-1 vote with Commissioner Otsuji voting NAY, and Commissioner Smiley not present.

On May 13, 2008, the University Community Planning Group (UCPG) voted 11-3-1 and again on June 10, 2008, voted 14-2-1 to recommend denial of the project. The UCPG denial was based upon the project not complying with the adopted Community Plan.

KEY STAKEHOLDERS:

University Towne Center Venture L.L.C., owner
Nordstrom Incorporated, owner
Sears and Roebuck and Company, owner
CMF University Towne Center South, L.L.C., owner
CMF University Towne Center North, L.L.C., owner
Westfield Corporation, applicant
University Community Planning Group

Anderson/Broughton

LEGAL DESCRIPTION:

The subject site is located east of Genesee Avenue, south of La Jolla Village Drive, west of Towne Centre Drive, and north of Nobel Drive, within the University Community Plan Area and is more particularly described as Portions of Parcels 1 and 2 of Parcel Map 12903 and Parcels 1, 3, and 4 of Parcel Map 6481.

Staff: Tim Daly – (619) 446-5356
Andrea Contreras Dixon – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:39 p.m. - 3:54 p.m.;
3:59 p.m. - 5:24 p.m.;
5:29 p.m. - 6:50 p.m.)

Testimony in Opposition by George Lattimer, Mignon Scherer, Carol Pietras, Marcia Munn, Daniel Beeman, Ian Trowbridge, Robert Byrnes, Loretta Spano, Charles Pratt, Nony Sprang, Joy Sunyata, Debbie Knight, and Sandra Lippe.

Testimony in Favor by Jonathan Bradhurst, Greg Fitchitt, Paul Silvern, Joe Panetta, Lorena Gonzalez, Ethel Pascal, Ruben Barrales, Edith Hunio, Jim Gleason, Sandra Diaz, James Page, Sue Reynolds, Mike Magallanes, Barbara Warden, Vincent Mudd, Janis Deady, Stephen Kapp, Andrew Poat, Alice Tana, Mark Finch, Scott Barnett, Todd Phillips, Debra Kelly, Jim Schmidt, Andy Friedenberg, Katie Hansen, JC Thomas, Brad Barnum, Andrew McAllister, Erica Oyama, Francis Venn, Michael Eckman.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, C, D, AND INTRODUCE THE ORDINANCE IN SUBITEM E, WITH FINDINGS, CONDITIONS, AND MODIFICATIONS AS FOLLOWS:

1. CONDITION NO. 34 SHOULD BE MODIFIED AS FOLLOWS: PRIOR TO ISSUANCE OF ANY CONSTRUCTION PERMIT FOR ANY DEVELOPMENT WITHIN THE BOUNDARIES OF THE LA JOLLA TERRACE DISTRICT AS SHOWN ON THE APPROVED EXHIBIT A, UNIVERSITY TOWNE CENTER MASTER PLAN AND DESIGN GUIDELINES, AND THE UNIVERSITY TOWNE

- CENTER REVITALIZATION PLANS, THE OWNER/PERMITTEE SHALL ENTER INTO A DEFERRED IMPROVEMENT AGREEMENT AND POST A BOND FOR THE DESIGN AND CONSTRUCTION OF A PEDESTRIAN BRIDGE ACROSS LA JOLLA VILLAGE DRIVE BETWEEN TOWNE CENTER DRIVE AND EXECUTIVE WAY IN A MANNER SATISFACTORY TO CPCI FACILITIES FINANCING AND THE CITY ENGINEER. PRIOR TO THE DESIGN AND CONSTRUCTION OF ANY ALTERNATE PEDESTRIAN PROJECT AS RECOMMENDED BY THE FUTURE MOBILITY STRATEGY, THE OWNER/PERMITTEE SHALL PROVIDE APPROPRIATE APPLICATION(S), INCLUDING SUBSTANTIAL CONFORMANCE REVIEW, OR AMENDMENT(S) TO THIS PERMIT;
2. CONDITION NO. 35 SHOULD BE MODIFIED TO INDICATE THE DESIGN OF THE PEDESTRIAN BRIDGE OR THE DESIGN OF ANOTHER PEDESTRIAN PROJECT AS RECOMMENDED BY THE FUTURE MOBILITY STRATEGY STUDY SHALL BE CONSISTENT WITH THE ADOPTED UNIVERSITY COMMUNITY PLAN URBAN DESIGN-LINKAGES AND TRANSPORTATION ELEMENTS AND SATISFACTORY TO THE CITY ENGINEER;
 3. CONDITION NO. 38 SHOULD BE MODIFIED TO REQUIRE A MINIMUM OF 36-INCH BOX SIZE STREET TREES, RATHER THAN 24-INCH BOX SIZE;
 4. CONDITION NO. 64 SHOULD BE MODIFIED TO READ, "OFFICE USES, OTHER THAN IN SUPPORT OF ONSITE COMMERCIAL AND RESIDENTIAL USES OR IN ACTIVATED STREET FRONTAGE LOCATIONS IDENTIFIED IN EXHIBIT A, MASTER PLANNED DEVELOPMENT PERMIT AND DESIGN GUIDELINES FOR WESTFIELD UTC, PAGES, 4:15, AND HOTEL USES SHALL NOT BE ALLOWED ON THE UNIVERSITY TOWNE CENTER SITE";
 5. A CONDITION SHOULD BE ADDED WITH RESPECT TO RECYCLING WHICH READS, "THE OWNER/PERMITTEE SHALL PROVIDE RECYCLING CHUTES WITHIN ALL RESIDENTIAL BUILDINGS EQUIVALENT TO ANY TRASH CHUTES, OR SHALL PROVIDE OTHER COMPARABLE MEANS TO ASSURE THAT RECYCLING IS EQUALLY CONVENIENT FOR RESIDENTS AS TRASH DISPOSAL, SATISFACTORY TO THE CITY ENGINEER";
 6. CONDITION NO. 93 SHOULD BE MODIFIED TO ALSO REQUIRE APPROVAL OF THE EXECUTIVE DIRECTOR OF SANDAG;

7. ADD A CONDITION TO REQUIRE THE OWNER/PERMITTEE SHALL NOT PLACE ANY ABOVE-GRADE PRIVATE UTILITIES WITHIN THE SIDEWALK THROUGHWAY;
8. A CONDITION SHOULD BE ADDED WITH RESPECT TO SAFETY AND SECURITY MEASURES INCLUDING BUT NOT LIMITED TO 24-HOUR SECURITY, SECURITY CAMERAS, CALL BOXES, ADEQUATE LIGHTING, AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS), AND NEUTRAL HOST ANTENNAE IN THE PARKING STRUCTURES IF NECESSARY TO ENSURE CELLULAR PHONE SERVICE;
9. ADD A CONDITION STATING THAT THE OWNER/PERMITTEE SHALL INSTALL, OPERATE, AND MAINTAIN EMERGENCY CALL BOXES READILY ACCESSIBLE TO THE PUBLIC IN ALL PARKING AREA STRUCTURES;
10. ADD A CONDITION STATING THAT TRASH DUMPSTERS SHOULD BE COVERED AND HIDDEN FROM EXTERNAL VIEW;
11. ADD A CONDITION WITH RESPECT TO STREET ACTIVATION WHICH READS, "AT LEAST 50 PERCENT OF THE STREET FRONTAGE OF LA JOLLA VILLAGE DRIVE AND GENESSEE SHALL BE ACTIVE, MEANING EITHER TRANSPARENT STOREFRONTS, TRANSPARENT DISPLAY WINDOWS, TRANSIT CENTER FRONTAGE, RETAIL STORE ENTRIES, OR ENTRYWAYS INTO THE PROJECT";
12. ADD LANGUAGE TO CONDITION NO. 93 STATING THAT THE APPLICANT HAS AGREED TO A 50 PERCENT SUBSIDY FOR UNIVERSAL TRANSIT PASSES FOR UTC EMPLOYEES AND UTC RESIDENTS AS PREVIOUSLY AGREED TO BY THE APPLICANT;
13. ADD LANGUAGE TO CONDITION NO. 93 WHICH REFLECTS CARPOOL AND VANPOOL INCENTIVE, "THE APPLICANT AGREES TO PROVIDE RIDE-SHARING SERVICES, SUCH AS A CARPOOL AND VANPOOL INCENTIVES, CUSTOMIZED RIDE-SHARING SERVICES, A GUARANTEED RIDE HOME PROGRAM, AND AN ACTIVE MARKETING PROGRAM TO ADVERTISE THE SERVICES TO EMPLOYEES AND RESIDENTS" AS PREVIOUSLY AGREED TO BY THE APPLICANT.

IN ADDITION REQUEST THAT:

14. APPLICANT WILL MAKE A CASH CONTRIBUTION SUBSTANTIALLY SIMILAR TO THAT MADE BY THE FBA IN ADDITION TO LAND CONTRIBUTIONS;
15. APPLICANT AND THE WATER DEPARTMENT WILL CONTINUE TO WORK TOGETHER TO CREATE A LIST OF PROJECTS THAT WOULD BE USED AS OFFSETS, AND ALSO CONSIDER ARTIFICIAL TURF PROJECTS USING NO WATER;
16. COUNCIL ALSO MAKES THE FOLLOWING ADDITIONAL FINDINGS REGARDING REDUCING PARKING BELOW THE LEVEL PROPOSED BY THE PROJECT: THE CURRENT PROJECT ALREADY INCLUDES A SUBSTANTIAL REDUCTION IN AVAILABLE PARKING BELOW THE PARKING RATIOS NORMALLY REQUIRED BY THE CITY AND THE AMOUNT OF PARKING PROVIDED WILL NOT BE SUFFICIENT FOR THE DEMAND FOR PARKING DURING PEAK SHOPPING PERIODS AS SET FORTH IN THE PARKING STUDY PREPARED FOR THE PROJECT. TO FURTHER REDUCE PARKING WOULD HAVE SEVERAL ADVERSE EFFECTS, IT WOULD BE CONTRARY TO GOOD PUBLIC POLICY. WITH REDUCED PARKING THERE WILL BE SPILLOVER EFFECTS ON SURROUNDING BUSINESSES AND HOMES AND PERSONS SEEKING NEARBY OFF-SITE PARKING AND USE THE EXTENSIVE PEDESTRIAN NETWORK TO ACCESS THE SITE LEADING TO PARKING SHORTAGES, CONGESTION, AND LAND USE CONFLICTS. IN ADDITION, THE CURRENT TRANSIT NETWORK HAS NOT BEEN FULLY EXPANDED TO THE PROJECT SITE. THE CITY BELIEVES THAT ANY EXTENSIVE PARKING RESTRICTION OR CHARGE SHOULD BE CONSIDERED ON A CITY-WIDE BASIS FOR ALL RETAIL ESTABLISHMENTS RATHER THAN SINGLING OUT AN INDIVIDUAL PROJECT WITH A RESTRICTION THAT HAS NOT BEEN APPLIED TO OTHER SIMILAR PROJECTS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-S500: Memorandum of Understanding (MOU) with Metropolitan Transit System (MTS) for Transit Shelters and Benches. (Citywide.)

(See Report to the City Council No. 08-119.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-106) ADOPTED WITH DIRECTION AS
RESOLUTION R-304026

Authorizing the Mayor to enter into a Memorandum of Understanding (MOU) with the San Diego Metropolitan Transit System (MTS) for transit shelters and bus benches in the public right-of-way effective August 1, 2008, through June 30, 2013;

Terminating the existing Memorandum of Understanding approved by Resolution R-277415 in 1991, and all subsequent amendments;

Declaring that this activity is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

These actions will provide MTS with the opportunity to receive increased revenues from advertising on shelters.

The existing MOU, which expires in 2010 for benches and 2015 for shelters, places limits on the revenue MTS can receive from advertising. Revenue from the shelter program is limited to \$150,000 annually and may only be used for MTS administrative expenses. No revenue from the shelter program goes to the City. Annual revenue from the bench program is divided equally between MTS and the City after subtracting MTS administrative expenses.

MTS would like to terminate the existing MOU and enter into a new agreement that does not limit MTS revenue to its administrative expenses only. This will allow them to charge higher fees to the shelter contractor.

MTS is finalizing negotiations with its current shelter contractor who has agreed in principle to pay MTS no less than \$4 million over the five-year contract extension. There may be additional revenue to MTS from advertising on new shelters and existing non-advertising shelters converted to advertising.

The proposed MOU shelter program has a revenue sharing provision resulting in no less than \$348,000 for the City over five years. The City will also receive ten percent of MTS' additional net revenue from advertising on new shelters and non-advertising shelters converted to advertising. The use of all shelter revenue to the City is limited to capital improvements in support of bus stops, such as concrete bus pads.

The existing revenue sharing formula between MTS and the City for the bench program runs through January 1, 2010, and will be retained. Revenues in excess of administrative costs are divided equally between MTS and the City.

The proposed MOU will change some provisions of the existing program, as follows.

- Allow MTS to receive additional revenues from the shelter contractor.
- The City's share of revenue from the shelter program will be at least \$348,000 over five years.
- The requirement that one-third of the shelters be non-advertising will be removed.
- The City will have the opportunity to use available shelter advertising panels for civic events without charge.

FISCAL CONSIDERATIONS:

The City's share will be \$348,000 over five years for advertising on existing shelters within the City limits.

MTS will pay the City \$69,600 on August 15, 2009, and again on August 15th of each year through 2013. The City's annual share may exceed \$69,600 depending on the market for advertising on new shelters and non-advertising shelters converted to advertising. The use of City revenue from the shelter program is limited to capital improvements in the vicinity of bus stops. The existing revenue-sharing formula between the City and MTS for the bench program will not change.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The existing MOU was originally adopted by Ordinance O-17121 on July 25, 1988, as a pilot program and then as a full program by Resolution R-277415 on February 25, 1991. The First Amendment was entered into by managerial action on August 27, 1997. The Second Amendment was approved by Council on January 10, 2000, through Resolution R-292645. The Third Amendment was approved by Council on August 15, 2000, by Resolution R-293711.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The MTS Board of Directors approved a draft version of the proposed MOU and the contract extension between MTS and CBS Outdoor at their meeting of July 17, 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (If applicable):

The key stakeholders are MTS and City residents who travel by bus. They will benefit from the transit shelters, benches, MTS operating revenue and City capital improvement revenue that this proposed MOU will provide.

Boekamp/Jarrell

Staff: Deborah Van Wanseele - (619) 533-3012
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:12 p.m. – 2:37 p.m.)

MOTION BY MADAFFER TO ADOPT WITH DIRECTION THAT METROPOLITAN TRANSIT SYSTEM REPORT BACK TO THE CITY COUNCIL REGARDING THE CONTRACTOR COMPLYING WITH THE CLEAN WATER ACT. 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-S501: Resolution Opposing State Budget Proposal to Borrow from Local Governments.

(See memoranda from Council President Pro Tem Jim Madaffer dated 7/23/2008 and League of California Cities dated 7/22/2008.)

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-104) ADOPTED AS RESOLUTION R-304009

Opposing any and all efforts by state government to “borrow” or seize local tax funds, redevelopment tax increment and transportation sales tax funds by the state government to finance state operations as such a move would be fiscally irresponsible for the state and hamper effective local services and infrastructure investments;

Directing the Mayor to send this resolution and communicate this Council’s strong and unswerving oppositions on this matter to our Legislators and the Governor along with an expression of our continued appreciation for the Governor’s and any supportive legislators’ steadfast opposition to further borrowing or seizure of these funds.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:40 a.m.)

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

REPORT OUT OF CLOSED SESSION:

None.

