

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 MONDAY, DECEMBER 1, 2008
 AT 2:00 P.M.
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Pro Tem Madaffer at 2:11 p.m. Council President Peters recessed the meeting at 3:39 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:46 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 5:07 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 (sr)

FILE LOCATION: MINUTES



[ITEM-1:](#) ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-not 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

FILE LOCATION: MINUTES



[ITEM-10:](#) INVOCATION

Invocation was given by Liz Maland, City Clerk.

FILE LOCATION: MINUTES



[ITEM-20:](#) PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Hueso.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

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

**CS-1 *Blackwater Lodge and Training Center, Inc. v. Broughton et al.*
United States District Court Case No. 08-CV-0926-H**

REFERRED TO CLOSED SESSION OF TUESDAY, DECEMBER 2, 2008

CDCA Assigned: M. Severson

DCAs Assigned: C. Brock, R. Walters and G. Schaefer

Plaintiff filed its complaint against the City of San Diego, Kelly Broughton, and Afsaneh Ahmadi in federal district court claiming Plaintiff would be irreparably harmed if it was not allowed to immediately occupy a leased industrial warehouse in the City's planned Otay Mesa Development District to conduct training programs. The City Attorney will discuss the status of the litigation and Plaintiff's proposal for resolution of the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:39 p.m.)

Council President Peters closed the hearing.

**CS-2 *Grantville Action Group v. The City of San Diego, et al.*
San Diego County Superior Court Case No. 37-2008-0092628-CU-MC-CTL**

REFERRED TO CLOSED SESSION OF TUESDAY, DECEMBER 2, 2008

DCA Assigned: G. Spitzer

This litigation relates to a challenge to the settlement of the Grantville Redevelopment Plan validation action, which settlement the Redevelopment Agency and City Council approved on July 29, 2008. City Council and the Redevelopment Agency will confer with the City Attorney regarding the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:39 p.m.)

Council President Peters closed the hearing.

**CS-3 *City of San Jose v. Operating Engineers Local Union No. 3, et al.*
California Supreme Court Case No. S162647**

REFERRED TO CLOSED SESSION OF TUESDAY, DECEMBER 2, 2008

CDCA Assigned: A. Hersh

The *City of San Jose v. Operating Engineers Local Union No. 3, et al.*, matter is a case pending before the California Supreme Court, on the following issue: Does the Public Employment Relations Board have the exclusive initial jurisdiction to determine whether certain "essential" public employees covered by Meyers-Milias-Brown Act (Cal. Gov't Code § 3500 3511) have the right to strike, or does that jurisdiction rest with the superior court? In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and the City's Amicus Brief in support of the City of San Jose.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:39 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6

CS-4 Agency Negotiator: Scott Chadwick, Jay Goldstone

REFERRED TO CLOSED SESSION OF TUESDAY, DECEMBER 2, 2008

Employee Organization: AFSCME Local 127

CDCA Assigned: Alan Hersh
DCA Assigned: Bill Gersten/

Conference with Labor Negotiators regarding negotiated settlement of language and remedy contained in City-Local 127 MOU Article 44, A. 2, and the taking of possible action in connection therewith.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:39 p.m.)

Council President Peters closed the hearing.

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

CS-5 Number of Potential Cases: Up to 50 (Voluntary Compliance Program Filing)

REFERRED TO CLOSED SESSION OF TUESDAY, DECEMBER 2, 2008

DCA Assigned: W. Chung

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:39 p.m.)

Council President Peters closed the hearing.



[ITEM-200:](#) Independent Oversight Monitor Interim Report.

MAYOR SANDERS' RECOMMENDATION:

REPORT RECEIVED

Interim informational report from Stanley Keller, the Independent Oversight Monitor.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:20 p.m. - 2:54 p.m.)



[ITEM-201:](#) Agreement with Burke, Williams & Sorenson for Professional Consultant Services for FY2010 Contract Negotiations with the City's Five Recognized Employee Organizations.

(See memorandum from the City Attorney dated 11/3/2008.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-) ADOPTED WITH DIRECTION AS RESOLUTION
R-304451

Authorize the Mayor, or his designee, to execute an Agreement between the City of San Diego and Burke, Williams & Sorensen (Firm) for consultant services pertaining to the FY2010 contract negotiations with the City's five recognized employee organizations and to provide services related to employment relations matters for wages, hours, working conditions, and other terms and conditions as they apply, in an amount not to exceed \$500,000 on behalf of the City of San Diego with the Firm;

Authorize the City Comptroller to expend funds in an amount not to exceed \$500,000 from Citywide cost allocations for the Agreement between the City of San Diego and Burke, Williams & Sorensen (Firm);

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

STAFF SUPPORTING INFORMATION:

Labor Relations proposes to have Burke, Williams & Sorensen (Firm) as the sole source provider for consulting services pertaining to the FY2010 contract negotiations with the City's five recognized employee organizations and to provide services related to employment relations matters for wages, hours, working conditions, and other terms and conditions as they apply. This agreement is for a not-to-exceed amount of \$500,000.

Burke, Williams & Sorensen will serve as an expert labor relations consultant to the City pertaining to the FY2010 contract negotiations with the City's five recognized employee organizations:

San Diego Municipal Employees Association (MEA); the San Diego Police Officers Association (POA); Local 127; American Federal of State, County and Municipal Employees, District Council 36, AFL-CIO (AFSCME Local 127); Local 145, International Association of Firefighters (Local 145) and San Diego Deputy City Attorney's Association (DCAA) and will provide services related to employment relations matters for wages, hours, working conditions, and other terms and conditions as they apply. The scope of work and/or services to be provided by the Firm includes but is not limited to, labor negotiations, oral advice and communications, preparing collective bargaining proposals, counter proposals, briefing materials, presentation, correspondence, services related to employee relations matters for wages, hours, working conditions and other terms and conditions as applied, administrative and City proceedings and other issues as requested by the Office of the Mayor of the City of San Diego.

EQUAL OPPORTUNITY CONTRACTING:

Funding Source: City - Prevailing Wages do not apply to this contract.
Goal Requirement: 15% Voluntary
Contract Amount: \$500,000
Other: Work Force Report submitted.

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:

Expend funds in an amount not to exceed \$500,000 from Citywide cost allocations for the Agreement between the City of San Diego and Burke, Williams & Sorensen (Firm) pertaining to the FY2010 contract negotiations with the City's five recognized employee organizations and to provide services related to employment relations matters for wages, hours, working conditions, and other terms and conditions as they apply.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Chadwick/Goldstone

Aud. Cert. 2900368.

Staff: Scott Chadwick - (619) 236-5587

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:12 p.m. - 2:20 p.m.)

MOTION BY HUESO TO ADOPT WITH DIRECTION TO INITIATE DISCUSSIONS REGARDING THE INDEMNIFICATION PROVISION AND THE OMISSION OF THE INSURANCE REQUIREMENT. Second by Faulconer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



[ITEM-202:](#) Reservoir Recreation Business Process Re-Engineering (BPR).

(See Report to the City Council No. 08-180.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem A: (R-2009-143 Cor. Copy) ADOPTED AS AMENDED AS
RESOLUTION R-304452

Approve modification of Council Policy 400-03;

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

Subitem B: (R-2009-181) ADOPTED AS RESOLUTION R-304534

Accept the recommendations of the Reservoir Recreation Business Process
Reengineering (BPR) Study;

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

STAFF SUPPORTING INFORMATION:

Since its inception, in 1913, the reservoir recreation program has generated revenues through user fees. Citizens who fish, hunt or go boating on City-operated reservoirs have paid for these services. Fee increases have not kept pace with increasing costs, non-paying passive users have continued to increase, and enhanced services (skiing, jet skis, and windsurfing) are not fully cost recoverable. Until July 2006, the Water Department Enterprise fund directly subsidized these recreation programs. Using Business Process Reengineering (BPR), the Water Department and Park and Recreation Department worked jointly to determine necessary changes to the reservoir recreation program that will allow it to operate without Water Department subsidies.

Recreation Management

The primary purpose of the City's reservoir system is the impoundment and production of a safe municipal water supply. Public recreation is a secondary, but highly valued by-product of the reservoir system. The operational activities of reservoir management and reservoir recreation are interdependent due to the direct impact and influence of one activity on the other. However, the goal of operating effective recreational programs differs greatly from that of managing safe and efficient water delivery systems.

Fee Increases

Fees for fishing, hunting, and boating activities have not increased for more than ten years. However, maintenance and recreation costs have increased significantly. We expect that this BPR will realize \$1,148,600 of cost savings and/or cost recovery from the FY08 baseline. The recommended fee increases will result in fees that are comparable to average fees for other California lakes.

Service Level Changes

In addition to fee increases, several service-level changes are recommended. These recommendations will have very limited impact on City residents who will continue to enjoy fishing and water contact sports, rent boats, and engage in passive recreation activities. The following recommendations will result in annual savings.

- Eliminate phone reservations for boat rentals and rent boats on a first-come basis.
- Eliminate weekday boat rentals at Murray, Miramar, Hodges, and El Capitan.
- Eliminate boat rentals, catfish re-stocking, and duck hunting at Sutherland Reservoir. The availability of fishing (from shore and private boats) and turkey hunting will continue.

Although these recommendations will result in staffing reductions (4.08 FTE) for the Reservoir Recreation Program, it is recommended that the staff should be re-allocated to core reservoir maintenance duties. Since 1990, the Lake Reservoir Program staff has been reduced from 72 to 49 employees (32%) while the demands of the recreation program increased. Re-assigning staff will increase reservoir/dam/delivery system maintenance activities and improve operational efficiency.

FISCAL CONSIDERATIONS:

Approval of the BPR recommendations combined with the San Vicente closure will produce a net savings (combined new revenue and cost reduction) of approximately \$1.77 million to the General Fund from the FY08 Reservoir Recreation budget. The following table summarizes the fiscal impact of the BPR recommendations compared to both the FY08 and FY09 budgets:

REVENUE AND EXPENSE VERSUS RECOMMENDATIONS

	FTE	Expense	Revenue	Net Expense (Exp less Rev)
FY08 Budget	32.91	\$3,412,015	\$1,486,833	\$1,925,182
FY09 Budget	21.43	\$1,953,419	\$1,210,484	\$742,935
Proposed budget: Modified Program*17.35		\$1,994,583	\$1,835,513	\$159,070
Estimated Budgetary Impact (FY09-BPR)		(\$41,164)	\$625,029	(\$583,865)
Percent Change		2%	51%	79%

*** The proposed budget includes the closure of San Vicente Reservoir.**

Although the total expense for the proposed modified program is \$1,994,583, the approved FY09 Reservoir Recreation budget is \$1,953,419, resulting in a budget deficit of \$41,164. This deficit results because the FY09 budget was inappropriately set \$265,000 too low.

However, since we expect to implement the BPR recommendations by February 2009, we expect the City to realize \$561,000 of the estimated savings/revenue increase for FY09 and that the remaining budget can be closed within the City’s existing budget. We expect that this BPR will realize \$1,148,600 of cost savings and/or cost recovery from the FY08 baseline. It should be noted, however, that there will continue to be a net cost to program operations moving forward and approximately \$160,000 annually will be required from the General Fund to support this program.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Council Policy 400-03 addresses City Reservoir recreation activities. In January 2007, the City Council authorized the transfer of \$1,498,250 from the unallocated reserve to reimburse the Water Department Enterprise fund for the FY07 net cost of operating the Reservoir Recreation program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During the BPR study, the committee convened a meeting of stakeholders to provide a public perspective on the Reservoir Recreation program and community priorities.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include residents who use the reservoirs for recreational activity and those Water Department employees that provide the services required to operate the recreation program. Fees for non-passive recreational uses will be increased. However, all services (with little modification) will continue to be offered at all reservoirs, except Sutherland which is located in the unincorporated area north of Ramona.

The employees represented by the AFSCME Local 127 and the Municipal Employees Association will be impacted due to the re-allocation of a portion of reservoir operations staff time to core reservoir maintenance duties. The work related impacts of this BPR have been appropriately covered through the Meet and Confer process with MEA and Local 127.

Barrett/LoMedico

Staff: Jim Barrett - (619) 533-7555

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:57 p.m. - 3:39 p.m.)

MOTION BY MADAFFER TO ADOPT THE RECOMMENDATIONS WITH CHANGES TO COUNCIL POLICY 400 TO STATE, "THE MAYOR IS AUTHORIZED TO RECOMMEND REASONABLE USER FEES WITH COUNCIL APPROVAL." IN RECOGNITION OF THE PRIMARY PURPOSE OF THE MUNICIPAL RESERVOIR SYSTEM THE DIRECTOR OF PUBLIC UTILITIES HAS THE AUTHORITY TO SUSPEND ANY RECREATION ACTIVITY NOT TO EXCEED 90 DAYS DUE TO WATER QUALITY, SECURITY, OR SAFETY ISSUES AND THEN CONSULT THE CITY COUNCIL. 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-203: Two actions related to Inviting Bids for Sewer and Water Group 3011 Project. (Mid-City [Kensington], and College Community Areas. Districts 3 and 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-673) ADOPTED AS RESOLUTION R-304453

Approving the plans and specifications for the construction of the Sewer and Water Group 3011 Project (Project), including the prevailing wage specifications, as advertised by the Purchasing and Contracting Department, on Work Order Nos. 183441/173541/173551/183461/173561/183471/185131/188251/188161;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to establish contract funding phases and execute a construction contract with the lowest responsible and reliable bidder, provided that the City Comptroller first furnishes one or more certificates certifying that 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 \$8,034,271, from Sewer Fund 41506, CIP-44-001.0, Annual Allocation-Sewer Main Replacements, of which \$3,072,925 is for the purpose of providing funds for the construction and project related costs of Sewer and Water Group 648, \$1,418,904 is for the construction, and project related costs for Sewer Group 649, and \$3,542,442 is for the construction, and project related costs for Sewer and Water Group 650, provided that the City Comptroller first furnishes one or more certificates certifying that the necessary funds 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 \$15,374,872 from Water Fund 41500, CIP-73-083.0, of which \$1,541,689 is for the purpose of providing funds for the construction and project related costs of project Sewer and Water Group 648's construction, and project related costs, \$3,476,452 is for the construction, and related project costs for Sewer and Water Group 650,

and \$3,522,436 is for the construction, and project related costs for Water Group 651, \$2,481,478 is for the construction and project related costs of Water Group 703A; \$1,630,365 is for the construction and project related costs of Water Group 806, and \$2,722,452 is for the construction and project related costs of Water Group 807, provided that the City Comptroller first furnishes one or more certificates certifying that the necessary funds for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Forces from Water Fund 41500, CIP-73-083.0 Annual Allocation-Water Main Replacements in an amount not to exceed \$107,607 for construction of Sewer and Water Group 648, \$226,795 for construction of Sewer and Water Group 650, \$315,616 for construction of Water Group 651, \$226,460 for construction of Water Group 703A, \$100,000 for Water Group 806, and \$185,200 for the construction of Water Group 807;

Authorizing the expenditure of an amount not to exceed \$6,114 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation-Sewer Main Replacements for property related costs for Sewer Group 649;

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

Authorizing the Mayor, or his designee, to include state prevailing wage requirements in the contract awarded for this Project. (BID-K094301C)

Subitem-B: (R-2009-674) ADOPTED AS RESOLUTION R-304454

Amending the Addendum to a Mitigated Negative Declaration, Project No. 138114 (Addendum to MND, Project No. 63654), dated December 20, 2007, and Addendum to a Mitigated Negative Declaration, Project No. 149942 (Addendum to MND, Project 63654), dated April 23, 2008, (Addendum), for Sewer and Water Main Group 3011 (the Project), has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.);

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

Finding that revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, approving that said Project Nos. 138114, 149942;

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 Project.

STAFF SUPPORTING INFORMATION:

Sewer and Water Group 3011 is part of a program established by the City of San Diego, the California Department of Public Health and the Environmental Protection Agency mandating the replacement of all cast iron water mains and all concrete sewer mains currently in service. This project is located in Mid-City and College Community Plan Areas. The construction of this project will include replacing approximately 3.58 miles (18,921 linear feet) of existing 6-inch & 8-inch sewer mains, and the replacement of approximately 6.57 miles (34,693 linear feet) of existing 4-inch, 6-inch, 8-inch water mains and all other work and appurtenances. It also includes installing curb ramps and street resurfacing. Sewer & Water Group 3011 consist of Sewer & Water GJ648, Sewer GJ649, Sewer & Water GJ650, Water GJ651, Water GJ703A, Water GJ806 and Water GJ807. The streets affected by Sewer and Water Group 3011 are Marlborough Dr., Kensington Dr., Sussex Dr., Canterbury Dr., Westminster Tr., South Hempstead Cr., North Hempstead Cr., Palisades Rd., Ridgeway, Bedford Dr., Middlesex Dr., Hilldale Rd., Rochester Rd., Norfolk Tr., Lymer Dr., East Canterbury Dr., Alder Dr., Edgeware Rd., 42nd St., Hastings Rd., Bristol Rd., Roxbury Rd., Braeburn Rd., Palo Verde Ter., Yerba Santa Dr., Fremont Ln., Toyon Rd., Toyoff Way, Mesquite Rd., Bixel Dr., Saxon St., Redding Rd., Hewlett Rd. and Manhasset Dr. and the surrounding alleys and streets as shown on the location maps. Contractor will prepare traffic control shop drawings and implement them during construction after review and approval by the City.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP):

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

Goals: 13% Mandatory Subcontractor Participation Goal, 4% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1 % Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 8% Advisory Participation Goal Other Business Enterprise (OBE)

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

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$23,409,143. Enterprise funding of \$8,034,271 will be available in CIP-44-001.0, Annual Allocation - Sewer Main Replacements, Fund 41506, Sewer, and enterprise funding of \$15,374,872 will be available in CIP-73-083.0, Annual Allocation — Water Main Replacements, Fund 41500, Water, for this purpose. The project costs for the Sewer portion of \$8,034,271 and the Water portion of \$15,374,872 may be reimbursed approximately 80% by current or future debt financing. This project is scheduled to be phase-funded over two fiscal years from FY09 to FY10. No future funding is anticipated. Contingent upon the availability of funds, the City Comptroller will issue an Auditor Certificate for each phase of the project.

PREVIOUS COUNCIL COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This project was presented to the Kensington-Talmadge Planning Committee on August 10, 2003 and August 13, 2008 and College Area Community Council on November 14, 2007.

In addition, residents and businesses will be notified at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again, ten (10) days before construction begins by the Contractor through hand distribution of notices.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Residents in this area will encounter minor inconvenience during construction. This project is split between two different communities, the Kensington community and the College community. The construction will be conducted in phases so no more than one group job will be in construction per community at any given time. Impact to the community will also be minimized by resurfacing the streets upon the completion of each phase. After completion, residents will experience improved reliability of the sewer and water system. Tetra Tech was authorized to perform Civil Engineering as-needed consultant task for Sewer and Water GJ648. For Sewer GJ649, Project Design Consultants was authorized to perform a utility location service, Linscott, Law & Greenspan Engineers was authorized to perform a traffic control study and CGVL Engineers was authorized to perform a Close Circuit Televising service (CCTV) as-needed consultant tasks. Hirsch & Company was authorized to perform a utility location as-needed consultant task for Sewer GJ650.

Boekamp/Jarrell

Staff: Marnell Gibson (619) 533-5213
Pedro De Lara, Jr. – Deputy City Attorney

FILE LOCATION: CONT-Don Kelly Construction, Inc.

COUNCIL ACTION: (Time duration: 2:57 p.m. - 2:57 p.m.)

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



ITEM-204: Agreement with URS Corporation Americas for As-Needed Storm Water Engineering and Consulting Services. (Citywide.)

(See Report to the City Council No. 08-142; memorandum from Jose Luis Romo dated 11/19/2008; and Storm Water Department's 10/15/2008, Power Point.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2009-529) ADOPTED AS RESOLUTION R-304455

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with URS Corporation Americas, for As-Needed Storm Water Engineering and Consulting Services, under the terms and conditions set forth in the Agreement for Professional Services;;

Authorizing subject to the issuance of Task Orders under terms of the Agreement, the expenditure of an amount not to exceed \$12,500,000 from Fund No. 100, Department #533, and Storm Drain Fund No. 10508, and Fund No. 630221, CIP-12-159.0, Watershed Capital Projects Annual Allocation, or from other funds and CIP projects identified by the City Comptroller, solely and exclusively to provide funds for the Agreement, provided further that the City Comptroller

furnishes one or more certificates demonstrating that the funds necessary for expenditure for each Task Order are, or will be, on deposit in the City Treasury;

Approving the expenditure of the minimum consideration of \$1,000 under the Agreement;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(b)(4).

Subitem-B: (R-2009-530) ADOPTED AS RESOLUTION R-304456

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Tetra Tech, Inc., for As-Needed Storm Water Engineering and Consulting Services, under the terms and conditions set forth in the Agreement;

Authorizing, subject to the issuance of Task Orders under terms of the Agreement, the expenditure of an amount not to exceed \$12,500,000 from Fund No. 100, Department #533, and Storm Drain Fund No. 10508, and Fund No. 630221, CIP-12-159.0, Watershed Capital Projects Annual Allocation, or from other funds and CIP projects identified by the City Comptroller, solely and exclusively, to provide funds for the Agreement, provided further that the City Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure for each Task Order are, or will be, on deposit in the City Treasury;

Approving the expenditure of the minimum consideration of \$1,000 under the Agreement;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(b)(4).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/15/2008, NR&C voted 4 to 0 to forward to the full City Council without a recommendation, with a request that staff return with information with regard to what portion of this contract needs to be done legally to make the City compliant with its National Pollution Discharge Elimination System Permit. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The City has a need for professional storm water engineering and consulting services on an as-needed basis to support its efforts in managing its storm drain system and complying with multiple urban runoff pollution regulations. These services will support program-level decisions that are needed to address both aging infrastructure and mitigation of pollutants from and caused by urban runoff in the most efficient manner.

In June 2008, the Storm Water Department issued a Request for Proposals (RFP) for storm water engineering and consulting services with the guidance of the Purchasing & Contracting Department. Nine (9) proposals were received, and a selection panel, in compliance with City Council Policy No. 300-7, was convened.

The selection panel consisted of City staff, including a representative from the Equal Opportunity Contracting Program (EOCP). Due to the relatively small number of proposals received, no short listing was conducted, and all nine (9) proposers were interviewed in September 2008. The selection process was based on ratings in five (5) established categories. Based on the rating criteria applied to each of the five (5) categories, the selection panel determined URS Corporation Americas and Tetra Tech, Inc., to be the two highest qualified firms.

Two agreements will be executed, one (1) with each firm, to ensure the City sufficient support over the next five (5) years to accomplish its anticipated workload. The proposed agreements with URS Corporation Americas and Tetra Tech Inc. will have duration of five (5) years effective from the date of Council approval. Each agreement will have a not-to-exceed amount of \$12.5 million for an aggregate total of not-to exceed \$25 million over a 5-year period. They will provide support on an as-needed basis in the following general areas, thus reducing the need for other future agreements: (a) Task Management and Administration; (b) Best Management Practice Development and Engineering; (c) Storm Water Infrastructure Asset Management; (d) Environmental Assessment and Permitting; (e) Monitoring and Investigations; (f) Strategic Planning; and (g) Program Assessment.

City departments other than the Storm Water Department may access the services to be available under the agreements, in particular to perform design and environmental assessment work associated with storm water projects and to fulfill Municipal Storm Water Permit responsibilities as outlined in the City's Jurisdictional Urban Runoff Management Plan.

Equal Opportunity Contracting:

Funding Agency: City of San Diego
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation: URS Corporation:
\$1,250,000 Certified Firms (10%)
\$6,000,000 Other Firms (48%)
Tetra Tech, Inc.:
\$1,000,000 Certified Firms (8%)
\$7,625,000 Other Firms (61%)
Other: Work Force Reports Submitted. Equal Opportunity Plans required.
Staff will monitor plans and adherence to Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

The total not-to-exceed value of the two (2) agreements will be \$25 million (\$12.5 million for each agreement) over a period of five (5) years. Work under these Agreements will be funded in increments via the annual fiscal year budget. The City's total obligation on these agreements will be subject to Council approval during the budget approval process for each fiscal year during the 5-year period. Funding for the task orders issued under the agreements will come from Fund #100/Department #533 (General Fund/Storm Water Department), Fund #10508 (Storm Drain Fund), Fund #630221/CIP-12-159.0 (Watershed Capital Projects Annual Allocation), and other funds and individual CIP projects as identified in the City's annual budget in order to support storm water related work only. For each task order, the City Auditor and Comptroller will be requested to furnish one or more certificates demonstrating that the funds necessary for the expenditure are, or will be, on deposit in the City Treasury. In Fiscal Year 2009, the Storm Water Department anticipates issuing task orders with an estimated total value of \$2,740,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Natural Resources and Culture Committee voted 4-0 on October 15, 2008, to forward the Agreements to the full City Council without a recommendation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The RFP was advertised in several newspapers, including those serving minority communities, to encourage broad and diverse participation in the competition. Notice of the RFP was also placed on the City's official website.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include URS Corporation Americas and Tetra Tech, Inc. Establishment of the agreements will facilitate the Storm Water Department's efforts to protect the quality of the City's and region's water bodies and comply with federal and state water quality regulations that will benefit residents and businesses, the region's tourist industry, and the local environment.

Heinrichs/Jarrell

Aud. Certs. 2900350 and 2900351.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:55 p.m. - 2:56 p.m.)

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



ITEM-205: Ocean View Village, Project No. 96580. Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units, on a 10.4 acre site located at 996 Otay Valley Road. (Otay Mesa Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units, on a 10.4 acre site located at 996 Otay Valley Road. The Site Development Permit is for Steep Hillside, Sensitive Biological Resources and seven Deviations to development regulations for Affordable Housing. The Vesting Tentative Map is for a subdivision for condominium construction. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes redevelopment from this auto dismantling use to the approved land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2 and IL-2-1 in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan.

NOTE: (Continued from the meetings of October 6, 2008, Item 201, October 14, 2008, Item S500, and the meeting of October 21, 2008, Item S500 at the request of Councilmember Hueso for further review).

NOTE: Hearing open. No testimony taken.

STAFF'S RECOMMENDATION:

Adopt the following resolutions in subitems A, B and C and introduce the ordinance in subitem D:

Subitem-A: (R-2009-315) ADOPTED AS RESOLUTION R-304457

Adoption of a Resolution certifying that the information contained in Addendum to Environmental Impact Report No. 98-0189, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.),

as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a Rezone Ordinance, Site Development Permit, and Vesting Tentative Map for Ocean View Village project;

Declaring that pursuant to California Public Resources Code Section 21081 and California Code of Regulations Section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the Office of the City Clerk;

Declaring that pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the project;

Declaring that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

Subitem-B: (R-2009-316) ADOPTED AS AMENDED AS RESOLUTION R-304458

Adoption of a Resolution certifying the findings, with respect to Site Development Permit No. 320732, which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Site Development Permit No. 320732 to Melvyn V. Ingalls, Owner/Permitee, sustaining the recommendation of the Planning Commission, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-C: (R-2009-317 Cor. Copy 1) ADOPTED AS RESOLUTION R-304459

Adoption of a Resolution certifying findings with respect to Vesting Tentative Map No. 314829 which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Tentative Map No. 314829 to Melvyn V. Ingalls, Applicant/Subdivider, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (O-2009-41 Cor. Copy)

INTRODUCED, TO BE ADOPTED
TUESDAY, JANUARY 6, 2009

Introduction of an Ordinance changing 10.4 acres located at 996 Otay Valley Road, within the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 zone into the RM-2-4, CN-1-2 and IL-2-1 zones, as defined by the San Diego Municipal Code Sections 131.0406, 131.0502, 131.0603; and repealing Ordinance No. O-10862 (New Series), adopted June 29, 1972, of the ordinances of the City of San Diego insofar as the same conflicts herewith.

OTHER RECOMMENDATIONS:

Planning Commission on July 24, 2008, voted 5-1-1 to recommend that the City Council certifies Addendum No. 96580 to Environmental Impact Report No. 98-0189; adopt the Mitigation Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. 314830 as presented in Report No. PC-08-085.

Additional recommendations to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy No. 900-14, and provide for a reclaimed water service if a reclaimed water service is available in the future.

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

The Otay Mesa Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a new mixed use development consisting of 143 residential units, 40,678 square feet of commercial, and 37,850 square feet of industrial uses on a 10.4 acre site located at 996 Otay Valley Road, within the Otay Mesa Community planning area.

STAFF RECOMMENDATION:

Recommend that the City Council certify Addendum No. 96580 to Environmental Impact Report No. 98-0189, adopt the Mitigation, Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. 314830.

EXECUTIVE SUMMARY:

The Ocean View Village project is a request for a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units on a 10.4 acre site located at 996 Otay Valley Road. The project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Site Development Permit is for Steep Hillside, Sensitive Biological Resources and seven Deviations to development regulations for Affordable Housing. The seven Deviations to development regulations are being requested as part of the affordable/in-fill housing and sustainable building regulations for setbacks, street frontage, drive aisle driveway width, retaining wall height, off-street loading spaces, and structure height. The Vesting Tentative Map is for a subdivision for condominium construction. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2 and IL-2-1 in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes redevelopment from this auto dismantling use to the proposed land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The project has not been controversial and there were no speaker slips in opposition at either of the two Planning Commission hearings. The project was docketed for Planning Commission on July 17th and trailed to July 24th. The Planning Commission recommended the City Council require two conditions; 1) provide photovoltaic panels (solar energy) on the roof for either the Residential or Commercial/Industrial area that would meet the Sustainable Expedite Program requirements of Council Policy 900-14, and 2) a condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

The owner/applicant recommends an alternative to both of the Planning Commission conditions. There is no current reclaimed water service to the project area; therefore staff could not condition the project to connect to a reclaimed water service at this time. There are no Municipal Code provisions that require projects to install photovoltaic panels. The applicant has volunteered to

provide 10% of the residential units as Affordable Housing. As an alternative to the condition to provide a future reclaimed water service, the owner/applicant agrees to provide this service for landscaping. As an alternative to the condition to provide photovoltaics, the owner/applicant agrees to build the commercial/industrial structures to LEED standards and impose specified sustainable design and development conditions on the residential portion of the project.

FISCAL CONSIDERATIONS:

All staff costs associated with processing this project are recovered from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Planning Commission: The Planning Commission recommended the City Council approve the project on July 24, 2008, by a vote of 5-1-1 with two recommendations: 1) The project be required to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy 900-14; and 2) Add a Condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

Community Planning Group: The Otay Mesa Community Planning Board voted 13-1-1 on September 20, 2006, to recommend approval of the project, with additional landscape recommendations that were incorporated into the design.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Owner: Melvyn V. Ingalls.

Applicant: M. W. Steele Group, Inc.

Broughton/Anderson/DM

LEGAL DESCRIPTION:

The project site is legally described as the southeast quarter of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, County of San Diego.

Staff: Diane Murbach – (619) 446-5042
Marianne Greene – Deputy City Attorney

NOTE: The City of San Diego, as Lead Agency under California Environmental Quality Act (CEQA) and State CEQA Guidelines has prepared and completed Addendum No. 96580 to Environmental Impact Report No. 98-0189, and the Mitigation, Monitoring and Reporting Program (MMRP) covering this activity.

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

FILE LOCATION: SUBITEMS A, B, C: MEET
SUBITEM D: NONE

COUNCIL ACTION: (Time duration: 4:38 p.m. - 5:04 p.m.)

MOTION BY HUESO TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, AND C AMENDING THE PERMIT IN SUBITEM B BY ADDING A TIME CONDITION OF WITHIN ONE YEAR TO PERMIT CONDITION #18 TO HOOK UP WITH THE PURPLE PIPE WHEN IT BECOMES AVAILABLE; AND INTRODUCE THE ORDINANCE IN SUBITEM D. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-250: **Notice** of Pending Final Map Approval - Tuscany.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Tuscany” (T.M. No. 40-0518/PTS No. 92575), located between Cedar Street and Date Street, Kettner Boulevard and California Street in the Centre City Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

ITEM-251: Notice of Pending Final Map Approval – 3337 Herman Avenue.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “3337 Herman Avenue” (T.M. No. 148353/PTS No. 166474), located on the east side of Herman Avenue between Thorn Street and Upas Street in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

ITEM-252: Notice of Pending Final Map Approval – 4640 Wilson Avenue.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4640 Wilson Avenue” (T.M. No. 159478/PTS No. 102077), located on the west side of Wilson Avenue between Madison Avenue and Adams Avenue in the Mid-City: Normal Heights Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have

questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:07 p.m. in honor of the memory of:

Alice Campbell Crittenden at the request of Council Member Atkins.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:05 p.m. - 5:07 p.m.)