



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: June 26, 2012 REPORT NO: 12-083
ATTENTION: Council President and City Council
Docket of July 9, 2012
SUBJECT: Balboa Park Plaza de Panama Parking Structure Plan of Finance
REFERENCE: None

REQUESTED ACTIONS:

1. Approve a Plan of Finance to contribute to the funding of the Parking Structure portion of the Proposed Balboa Park Plaza de Panama Circulation & Parking Structure Project through the issuance of tax-exempt bonds in an amount up to an anticipated \$14 million specifically towards the Parking Structure and to be self-supported by the revenue stream projected to derive from the Parking Structure and authorize staff to begin preparing the financing documents associated with the public issuance of tax-exempt bonds.
2. Authorize reimbursement through bond proceeds for any eligible costs which may be expended prior to the issuance of bonds.
3. Authorize the City Attorney to appoint Stradling Yocca Carlson & Rauth as Bond and Disclosure Counsel and pay an amount not to exceed \$60,000, plus reasonable out of pocket expenses not to exceed \$2,500. The fees payable to Bond and Disclosure Counsel shall be contingent upon the closing of the bonds and paid out of bond proceeds.
4. Authorize execution of the Plaza de Panama Improvement Agreement between the City of San Diego and the Plaza de Panama Committee, a California non-profit public benefit corporation, for the funding, design and construction of improvements to Balboa Park.

STAFF RECOMMENDATION:

Approve the requested actions.

SUMMARY:

I. Background

Subject to approval of the Environmental Impact Report for the Balboa Park Plaza de Panama Project (the "Proposed Project"), the City is considering the issuance of tax-exempt bonds to ensure funding for the Parking Structure and tram system (as encompassed in the Proposed Project) in an amount intended to be supported solely from revenues generated by the operation

of the Parking Structure. The Plaza de Panama Committee (the “Committee”) has already funded the design of the parking structure. The City’s contribution to the construction of the Parking Structure will be limited to the issuance of tax-exempt bonds in the amount of approximately \$14 million – of the approximate \$16 million total cost of the structure – to be self supported by the projected revenue stream derived from the Parking Structure. The remaining \$2 million funding balance and any potential cost overruns will be borne by the Committee, as will the design and construction of the rooftop park above the parking structure. Construction of the Parking Structure portion of the Proposed Project is anticipated to begin in December 2012 and the garage is expected to be open to the public February 2014 (estimated 14 months of construction).

The plan of finance (see below) is supported and enabled by the proposed Plaza de Panama Improvement Agreement (Appendix).

II. Discussion

A. Projected Parking Structure Revenues

To ascertain projected parking revenues, the Committee engaged Parking Concepts, Inc. (“PCI”) in 2011. PCI analyzed existing public parking utilization within Balboa Park and prepared a projection of demand for the proposed Parking Structure. Based on this projection, and the proposed fee of \$5.00 for five hours, PCI estimated the achievable revenue from visitor parking, special event parking, monthly parking passes, and valet parking operations. PCI estimates potential gross parking revenues from the Parking Structure to total approximately \$2.5 million annually. In addition, PCI projected annual operating expenses for both the Parking Structure and passenger tram (including lease cost). The PCI projection of net parking revenues, after operating expenses for the Parking Structure and tram system, is approximately \$1.3 million. The PCI projection was presented to the City, including the Office of the City’s Independent Budget Analyst (“IBA”) in June 2011. In April 2012, the Committee engaged Keyser Marston Associates, Inc. (“KMA”) to analyze the revenue and expense projections prepared by PCI. In its report dated June 7, 2012 (“Parking Feasibility Study”; see Attachment 1), KMA, in addition to answering questions posed by the IBA, determined the PCI projections, as summarized below, to be reasonable to conservative.

Typical Operating Year - Net Parking Revenues ⁽¹⁾	
<u>Parking Revenues</u>	
Visitor Revenue	\$1,933,600
Special Event Revenue	\$364,000
Monthly Parking Revenue	\$60,000
Valet Parking Revenue	\$118,800
Total Parking Revenues	\$2,476,400
<u>Operating Expenses</u>	
Parking Structure Expenses	\$615,300
Tram Expenses	\$543,200
Total Operating Expenses	\$1,158,500
Net Parking Revenues	\$1,318,000

(1) Reflects 2012 dollars

Source: KMA report “Balboa Park Parking Garage Financial Feasibility Analysis,” dated June 7, 2012

Upon the opening of the Parking Structure, parking revenues will flow into a new Balboa Park Parking Structure Fund, a Special Fund within the City Parks and Recreation Department intended to collect parking revenues and pay operating expenses (Parking Structure and tram) and annual debt service on the bonds, in addition to maintaining a Safety Fund within the special fund (discussed below).

B. Summary Plan of Finance

Given the projected Net Parking Income described above, the following bond issue structure is recommended to efficiently utilize parking revenues in the most cost-effective, yet prudent manner. It should be noted that the concepts discussed herein are presented in summary manner and subject to some modifications since details of the plan of finance and financing documents cannot be fully developed until such time as the financing documents are finalized.

Lease Revenue Bonds

The bonds are recommended to be publicly issued as General Fund tax-exempt lease obligations by the City under the Joint Powers Authority (the “Authority”) legal framework (the “Bonds”). Lease revenue bonds are based on leasing arrangements between two entities, in this case the City and the Authority, which issues the Bonds.

The Parking Structure, once constructed, will be the subject of the lease; in the interim while the Parking Structure is being built, a temporary asset transfer would be utilized. This temporary asset use would involve a lease agreement between the City and the Authority of one, or at most up to two, existing unencumbered City-owned General Fund properties (the “Leased Properties”) with a combined annual fair rental value equaling the annual debt service on the lease revenue bonds, as required under the lease financing structure. Debt Management staff will work with the Real Estate Assets Department to identify the unencumbered property to be utilized on a temporary basis and seek future City Council authorization subject to the approval of the plan of finance. While the Authority issues the lease revenue bonds as City General Fund supported lease obligations, debt service for the funds will be covered solely by the Parking Structure generated revenue.

Of particular note, the Parking Structure to be constructed in Balboa Park – to be valued at approximately \$16 million – will be a valuable City property and a new General Fund asset. Soon after the completion of the construction, the Committee will assign the Parking Structure to the City. At the end of the bond repayment term, City will own the asset free and clear of encumbrances.

Protections to the General Fund

In order to effectively insulate the General Fund and to follow through on the City and Committee’s assurances that the City’s General Fund is not impacted by the Project, certain protection features are recommended.

Debt Service Coverage

After the period in which debt service is funded out of capitalized interest (as discussed below), a level amortization over the 30-year term is recommended, resulting in equal annual debt service payments through maturity. Under the proformas and revenue findings generated by the Committee, net parking revenues are anticipated to cover annual debt service under this structure by at least 110% beginning in Fiscal Year 2016, depending on market conditions at the time of the bond pricing. This coverage, which would be at least 10% above the required annual debt service payment, will mitigate revenue shortfalls by such amount and eliminate the need for the City to cover a revenue shortfall.

Capitalized Interest

Since revenue to support the debt service will not be available until after the completion of the Parking Structure and the facility is open for public use, a capitalized interest fund to pay interest on the bonds will be funded with proceeds of the issue offsetting the need for the City to fund or front debt service during the construction of the Parking Structure. This is a standard feature for bond issues that provide funding for a capital facility that generates income and the bond payments are dependent on the revenue from the facility. The amount anticipated to be funded from bond proceeds will pay for interest payments on the bonds during the construction period, plus an additional amount to mitigate the risk of any construction delays and until the garage is established operationally and begins to collect parking revenue (“capitalized interest period”). Based on initial analysis, the capitalized interest period is estimated to be between 2.5 to 3 years. Parking revenues collected while interest payments are paid from the bond funded capitalized interest fund will be deposited in the Safety Fund establishing an internal reserve to protect the General Fund (see discussion below).

Safety Fund to Protect City’s General Fund

A city-held Safety Fund is recommended to be established from excess net parking revenues to serve as a shock absorber against revenue volatility. This ensures sufficient revenue is available to cover annual debt service, annual operational expenses of the Parking Structure, and tram operation. While net parking revenues are not anticipated to be particularly volatile based on the findings of the Parking Revenue Study, the Safety Fund would be a funding source to cure any revenue deficiencies to cover annual debt service and operating costs for the Parking Structure and tram system.

The Safety Fund is anticipated to be initially funded by net parking revenues collected upon the completion of construction of the Parking Structure during the Capitalized Interest Period as discussed above. Debt service during this period (2nd Quarter of FY2013 through 1st Quarter of FY2016) will be programmed to be funded out of the capitalized interest fund. In addition, surplus revenues exceeding parking revenues from typical year operations are expected from Centennial Celebration events planned for the Park throughout 2015, further supplementing the Safety Fund (approximately \$250,000 is estimated)¹. The funding amount is targeted to be sufficient to cover up to one (1) year of debt service and one (1) year of both Parking Structure and tram operating expenses; this is estimated to be approximately \$2.3 million and is projected to be reached by the first quarter of Fiscal Year 2016. Once this level is reached, excess net

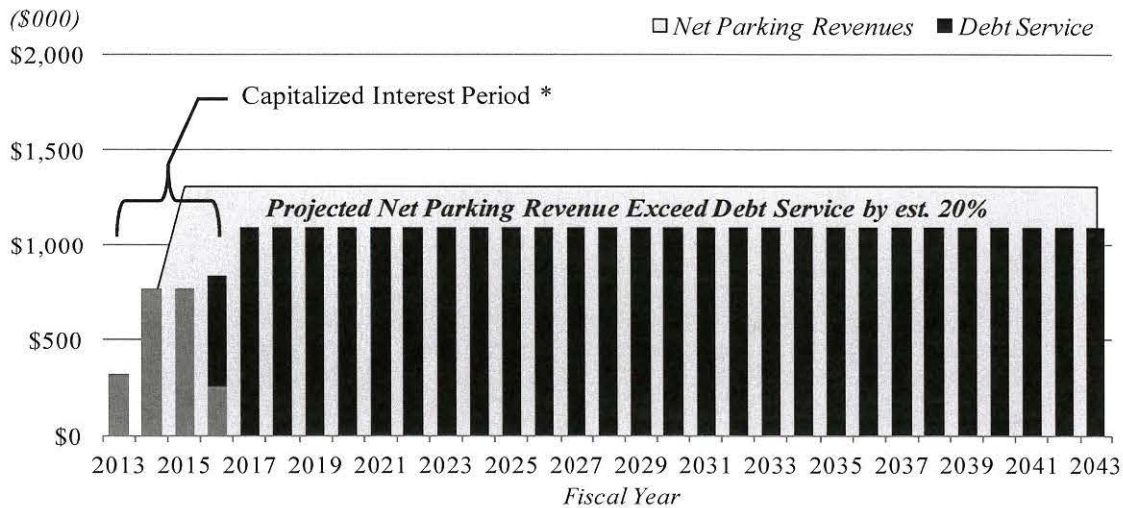
¹ Conservatively, surplus revenues from centennial year events have not been considered to size the bond issuance.

parking revenues would be retained as General Fund revenue and can be used for any general purpose that the City deems appropriate.

Over the life of the Bonds, should a draw on the Safety Fund be required for the City to meet debt service or operating expense shortfalls in a given year, thereby reducing the funding level below the initially established amount described above, excess net parking revenues in subsequent year(s) would be used to replenish the Safety Fund to the original level. No adverse repercussions (i.e., investor concerns, higher costs of borrowing for future issuances or impact on credit ratings) would result in the event of a Safety Fund draw.

Estimated Debt Service Coverage (preliminary and subject to change)

Based upon the recommended structure above and market conditions as of late June 2012, (plus 0.50% cushion to account for interest rate fluctuations), annual debt service for a 30 year bond issue amounts to approximately \$1.1 million beginning in Fiscal Year 2016. This is approximately \$215,000, or 20%, less than projected net parking revenues, as depicted in the chart below.



* Capitalized Interest Period assumed December 2012 - 1st Quarter of FY2016; assumed net parking revenues to pay debt service beginning 2nd Quarter of FY2016

C. Reimbursement Resolution

In the event that the City needs to advance any capital project expenses, the City must adopt a reimbursement resolution in accordance with section 1.150-2 of Treasury Regulations (“Regulations”) in order to be reimbursed for these costs. By adopting a reimbursement resolution, City will satisfy the Official Intent Requirement under the Regulations and be able to reimburse project related expenses using funds available for the bond proceeds. Adoption of the reimbursement resolution will not obligate the City to expend or advance any funds for the Parking Structure financing; it merely enables the City to get reimbursed for all qualified project related expenses that the City advanced to the project.

D. Timeline

Upon City Council approval of the plan of finance, staff will begin preparing the various legal documents associated with the public issuance of tax-exempt bonds. Under the following schedule, the Bonds are expected to be issued by the end of November 2012, in time to provide funding to commence construction of the Parking Structure in December 2012. With an estimated construction period of 14 months, the Parking Structure is expected to be open for operations by February 2014.

In order to execute the Bonds, the City Council authorizations are expected to occur as follows:

September 2012	Introduction & approval (2 readings) of the Financing Ordinance and approval of the financing documents
October 2012	Approval of the disclosure document (Preliminary Official Statement)
November 2012	Bond sale and execution of the Bond Purchase Agreement Bond Closing and deposit of construction proceeds with the bond trustee
December 2012	Construction commencement
February 2014	Anticipated Parking Structure opening date

FISCAL CONSIDERATIONS:

Based upon the recommended structure above and market conditions as of late June 2012, Bonds solely funded by net parking revenues will deliver an estimated \$14 million as the City's contribution to the Proposed Project. It should be noted that the figures discussed herein are preliminary and subject to change.

Key Statistics (Preliminary and Subject to Change)	
Bond Issue Size	\$16.5 million
City Contribution to Proposed Project	\$14.0 million
Capitalized Interest Fund	\$2.1 million
Costs of Issuance	\$0.4 million
Term of Bonds	30 years
Estimated Interest Rate	4.86%
Annual Debt Service	\$1.1 million

PREVIOUS COUNCIL and/or COMMITTEE ACTION

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Refer to Repot No.12-080, "Balboa Park Plaza de Panama, Circulation and Parking Structure Project"



Lakshmi Kommi
Debt Management Director



Tony Heinrichs
Public Works Director



Jay M. Goldstone
Chief Operating Officer

Attachment 1: KMA report "Balboa Park Parking Garage Financial Feasibility Analysis," dated June 7, 2012

Appendix: Plaza de Panama Improvement Agreement



KEYSER MARSTON ASSOCIATES
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

To: Plaza de Panama Committee

From: KEYSER MARSTON ASSOCIATES, INC.

Date: June 7, 2012

Subject: Balboa Park Parking Garage
Financial Feasibility Analysis

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I. INTRODUCTION

A. Objective

Pursuant to our agreement dated April 11, 2012, Keyser Marston Associates, Inc. (KMA) has undertaken an analysis of the financial projections for the parking garage proposed for San Diego's Balboa Park. Specifically, the Plaza de Panama Committee requested that KMA analyze the revenue and expense projections prepared by Parking Concepts, Inc. (PCI) during 2011-2012. The PCI projections were presented to the City of San Diego (City), including the City's Office of the Independent Budget Analyst (IBA), in June 2011. The IBA raised specific concerns for further evaluation, which are addressed in this KMA report.

B. Background

The Plaza de Panama Committee (Committee) is a sole purpose entity devoted to the development and implementation of the Plaza de Panama Project. The Plaza de Panama Project (Project) includes the proposed 797-space parking garage (Garage) in the context of a larger development plan currently under review for the central portion of Balboa Park (Park), as follows:

- *Access Road and Bridge* - The Project includes a new road connecting to Laurel Street near the eastern end of the Cabrillo Bridge. This road will intersect with Laurel Street and traverse southbound from a point west of the western archway of the

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Plaza de California and east of the most easterly span of the Cabrillo Bridge. The new access road will be linked to the existing Alcazar parking lot via a curvilinear bridge. The road will then continue easterly to the proposed Garage and link up with Presidents Way.

- *Alcazar Parking Lot Improvements* - The existing Alcazar parking lot will be reconfigured to support valet parking, drop-off, and accessible parking with accessible routes toward both El Prado and the Plaza de Panama.
- *Pan American Way Improvements* - Pan American Way improvements may include changes in horizontal and vertical alignment with the potential for grade-separation between vehicle, pedestrian, and/or tram circulation.
- *Parking Garage* - A 797-space, three-level (below-grade) parking structure will be developed in the general location of the existing Organ Pavilion parking lot. The structure will be exposed to daylight on the east side to allow for natural light and ventilation of the structure. A new, 2.2-acre park is planned for the Garage rooftop, which would include public restrooms at the northeast corner and a visitor center with public restrooms at the southwest corner.
- *Plaza de Panama, El Prado, and Esplanade Improvements* - The Plaza de Panama, West El Prado including the Plaza de California, and the Esplanade between the Plaza de Panama and the Organ Pavilion will be improved for pedestrian uses, amenities, features, and elements for daily and event uses. Combined with the new Garage rooftop park, these improvements will add a total of 6.3 acres of new useable parkland to Balboa Park.
- *Tram Service* - A park-friendly tram will provide service between the proposed Garage and the Plaza free of charge. The tram will be routed in a separate way designed to minimize conflicts with other vehicles and may operate at times in mixed traffic with pedestrian and bicycle users. The proposed tram operations include three trams, operating 6:00 a.m. to midnight daily, running from the north end of the Palisades parking lot to the Plaza de Panama.

As currently proposed, the Garage will operate on an automated basis. Patrons will pay at a machine at the beginning of their stay, rather than paying at a staffed ticket booth upon exiting. The initial parking fee is proposed to be \$5.00 for up to a five-hour stay.

PCI analyzed existing parking utilization within the Park and prepared a projection of demand for the proposed Garage. Based on this projection, and the proposed \$5.00

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parking fee, PCI estimated the achievable revenue from visitor parking. In addition, PCI evaluated revenue potential from special event parking, monthly parking passes, and valet parking operations. PCI estimates potential revenues in a typical operating year of Garage operations totaling \$2,476,000 (2012 dollars). The PCI projection of net operating income (NOI), after operating expenses for both the Garage and the proposed tram system, for a typical operating year is \$1,318,000 (2012 dollars).

C. KMA Approach

In completing this financial feasibility analysis, KMA undertook the following key work tasks:

1. Met with representatives of the Committee and PCI to review available background information and prior studies, including:
 - a. Draft Amendment to the Balboa Park Central Mesa Precise Plan (Rick Engineering, April 2012)
 - b. Parking Management Action Plan for Balboa Park (Tilghman Group, 2006)
 - c. Balboa Park Land Use, Circulation, and Parking Study (Jones and Jones, 2004)
2. Analyzed the PCI income and expense projections and identified areas requiring additional research.
3. Reviewed reports and other information prepared by the IBA and the City's Debt Management division.
4. Reviewed available background data on park utilization trends, visitor demographics, and parking lot occupancy patterns, including:
 - a. Balboa Park Plaza de Panama Circulation & Parking Structure Project Traffic Analysis (Rick Engineering, January 2012)
 - b. Balboa Park Land Use, Circulation, and Parking Findings & Options (Jones and Jones, September 2003)
 - c. Balboa Park Land Use, Circulation, and Parking Discovery Phase (Jones and Jones, August 2003)
5. Evaluated the inputs and assumptions used in the PCI financial projections in comparison with industry standards and the KMA experience on comparable projects.

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6. Prepared a financial model to illustrate projected operating income and expenses for the Garage.
7. Identified and tested alternative income and expense assumptions in order to evaluate their impact on the feasibility of the Garage.
8. Participated in meetings and teleconferences with Committee representatives, PCI, IBA staff, and City Debt Management staff to review issues and concerns.

D. Report Organization

This KMA report is organized as follows:

- Following this Introduction, Section II presents the KMA key findings from the feasibility analysis.
- Section III presents the KMA analysis of projected parking demand and revenues from the proposed Garage.
- Section IV presents the KMA analysis of projected operating expenses for the proposed Garage and tram system.
- Section V presents the KMA projection of operating cash flow for a 10-year period.
- Limiting conditions pertinent to this work effort are detailed in Section VI.

II. KEY FINDINGS

KMA evaluated the financial projections for the proposed Balboa Park parking garage. Parking Concepts, Inc. (PCI) estimates net operating income for the proposed Garage of \$1,318,000 in a typical operating year. KMA conducted an in-depth analysis of the PCI income and expense projections in comparison with similar garages and industry standards. Based on this analysis, KMA concurs with the PCI estimates of revenue from special events, monthly passes, and valet operations, as well as the PCI estimates of operating expenses for the Garage and proposed tram system.

With respect to the PCI estimates of visitor parking revenues for the Garage, KMA tested a “worst case” in which all visitors to the central core of the Park are assumed to seek free parking alternatives before choosing the Garage. KMA assumed that Park visitors would fill all parking lots within three-eighths (3/8) mile of the Plaza de Panama based on

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typical maximum walking distances. This encompasses all lots from Carousel North south to Palisades. As a conservative approach, KMA also included 90% of the unused spaces available at the Federal lot even though most of the Federal lot falls beyond 3/8 mile from the Plaza (see discussion in Section III-D). Portions of the Zoo lot and Inspiration Point lots fall within 3/8 mile from the Plaza. However, KMA notes that the portion of the Zoo parking lot closest to the Plaza is the first to fill up on a daily basis, and that the Inspiration Point lots are located across Park Boulevard, a major four-lane road. Therefore, the Zoo and Inspiration Point lots were excluded from the demand projections.

The KMA methodology resulted in slightly higher visitor revenues than the PCI projection, an increase of approximately 1.0%. It is important to note that the KMA projections of Garage utilization and visitor revenues are based solely on existing levels of visitation to the Park.

Conclusion

On this basis, KMA finds the PCI projection of revenues, expenses, and NOI for the proposed Garage, as summarized below, to be reasonable.

Typical Operating Year – Net Operating Income ⁽¹⁾			
<u>Garage Revenues</u>			
Visitor Revenue	\$1,933,600	\$2,426 /Space	78.1%
Special Event Revenue	\$364,000	\$457 /Space	14.7%
Monthly Parking Revenue	\$60,000	\$75 /Space	2.4%
Valet Parking Revenue	<u>\$118,800</u>	<u>\$149 /Space</u>	<u>4.8%</u>
Total Garage Revenues	\$2,476,400	\$3,107 /Space	100.0%
<u>Operating Expenses</u>			
Garage Expenses	\$615,300	\$772 /Space	
Tram Expenses	<u>\$543,200</u>	<u>\$682 /Space</u>	
Total Operating Expenses	\$1,158,500	\$1,454 /Space	
Net Operating Income	\$1,318,000	\$1,654 /Space	

(1) Reflects 2012 dollars.

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III. ANALYSIS OF PROJECTED PARKING DEMAND AND REVENUES

A. Existing Park Visitation Patterns

Balboa Park is a 1,200-acre park located directly northeast of Downtown San Diego, home to over 100 educational and cultural institutions, museums, theatres, organizations, and a variety of other destinations serving locals and visitors alike. As noted in the Balboa Park Central Mesa Precise Plan, the Central Mesa area of the Park includes the area east of State Route 163 (SR 163), north of Interstate 5 (I-5), west of Park Boulevard, and south of the Zoo. The Central Mesa contains approximately 89 acres of open park land and 17 acres of building area. For purposes of convenient reference in this study, KMA has used the term Central Mesa as defined in the Precise Plan, but with the exception of the War Memorial Building areas.

The Park, inclusive of the San Diego Zoo, receives 12 million visitors per year. According to the Balboa Park Land Use, Circulation, and Parking Study (Jones and Jones, 2004), approximately one-third of the Park visitors patronize the Park's museums. The remaining visitors reported visiting the Park for the following purposes: Gardens (22%), Walk/Recreation (14%), Other (13%), Zoo (11%), and Eat/Picnic (9%).

The Park accommodates hundreds of special events throughout the year. The smaller events bring 100 to 300 visitors for weddings, parties, and graduations. Festivals, races, concerts, and food fairs can host up to anywhere from 300 to 15,000 people each. Other major events include December Nights, Earth Fair, Making Strides Against Breast Cancer, and the America's Finest City (AFC) Half Marathon.

According to surveys conducted by Jones and Jones in April 2003, visitors to the Park arrive via the following methods: Car (82%), Transit (4%), Tour Bus (2%), Walk/Bike (4%), and Other (8%). Over 80% of the visitors arrive by car, either driving or being dropped off, with less than 5% of visitors using transit to get to the Park. For visitors arriving via car, the average car contains approximately three (3) occupants per vehicle.

Existing park visitors "hunt" extensively for parking spaces at the core of the Park despite the limited supply. Traffic patterns indicate that on a peak day, 3,116 vehicles per day enter from the west through Cabrillo Bridge, yet 4,161 vehicles per day travel southward on Pan American Road. This indicates that 1,045 vehicles are circling the center of the Park seeking parking. According to the Parking Management Action Plan for Balboa Park (Tilghman Group, 2006), approximately 72 vehicle miles per day are wasted in "hunting" for a parking spot at the Alcazar lot alone. The total mileage wasted

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hunting for parking in the central core of the Park could be as much as 200 vehicle miles per day.

B. Existing Parking Lot Utilization

The Central Mesa and Inspiration lots contain a total of 6,362 parking spaces. For the purpose of this study, KMA has categorized the surface parking lots in the Central Mesa as either core parking lots or non-core parking lots. There are 557 parking spaces located in the three (3) lots in the core area, 4,541 spaces in the non-core area, and 1,264 spaces in the Inspiration lots, as shown below:

Existing Core Area Parking Lots	
Plaza de Panama	54 Spaces
Alcazar Parking Lot	136 Spaces
Organ Pavilion Lot	367 Spaces
Total Core Area Parking Spaces	557 Spaces

Source: City Park & Recreation Department Staff Report, April 30, 2012

Existing Non-Core Area Parking Lots	
Federal Lot	509 Spaces
Gold Gulch Lot	43 Spaces
Palisades Lot	276 Spaces
Pepper Grove Lot	120 Spaces
Fleet Space Theatre Lot	166 Spaces
Casa de Balboa Lot	86 Spaces
Natural Museum Lot	98 Spaces
North/South Carousel Lots	292 Spaces
Botanical Building Lot	27 Spaces
Zoo Lot	2,924 Spaces
Total Non-Core Area Parking Spaces	4,541 Spaces

Source: Rick Engineering Company

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<i>Central Mesa and Inspiration Lots</i>	
Core Area Lots	557 Spaces
Non-Core Area Lots	4,541 Spaces
Inspiration Lots (North/South)	1,264 Spaces
Total Parking Spaces	6,362 Spaces

All parking spaces are currently available free of charge, except for the December Nights event, the one weekend each year when patrons are charged for parking in the Park. Parking rates for December Nights vary from \$10 to \$20 per vehicle, depending on location.

Data on existing parking utilization patterns within the Park have been assembled through several efforts:

- Tuesday and Saturday (peak occupancy) by Rick Engineering in 2010
- Utilization summary of the Plaza de Panama, Alcazar, Organ Pavilion, Palisades, Federal, and Inspiration Point lots by Balboa Park Rangers in 2010
- Tuesday and Saturday occupancy (7:00 am to 11:00 p.m.) by Field Data Services of Arizona in 2011 (for the Balboa Park Plaza de Panama Circulation & Parking Structure Traffic Analysis, Rick Engineering, January 2012)

KMA reviewed the utilization data and notes that:

1. The Plaza de Panama, Alcazar, Organ Pavilion, and Palisades lots are heavily utilized (65% or higher) at most times/days of the week.
2. The Federal and Inspiration lots demonstrate relatively low occupancy with the exception of weekdays for the Inspiration lots when the lots accommodate Naval Hospital and City College demand.
3. The Inspiration lots have exceptionally low utilization (below 10%) on weekend days (Rick Engineering, 2012).

According to the Tilghman Group study, there are over 1,200 employees and volunteers that work in the institutions in the Prado and Palisades areas. Of those 1,200, over 800 are present at one time and 94% of the employees of the Park have arrived by 10:00 a.m. As there are no dedicated parking spaces for staff/volunteers, the core area parking lots are utilized first by employees before visitors arrive to the Park.

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C. Projected Parking Garage Utilization

The proposed Project will eliminate the existing Plaza de Panama lot, reconfigure the existing Alcazar lot, and replace the Organ Pavilion parking lot. Upon completion of the Project, the available parking supply in the Park will increase by 272 spaces, or to 6,634 spaces, broken out as follows:

	<i>Existing</i>	<i>Proposed</i>	<i>Difference</i>
Non-Core Area Lots	5,805 Spaces	5,805 Spaces	0 Spaces
Plaza de Panama	54 Spaces	0 Spaces	(54) Spaces
Alcazar Parking Lot	136 Spaces	32 Spaces (1)	(104) Spaces
Organ Pavilion Lot	367 Spaces	0 Spaces	(367) Spaces
Parking Structure	0 Spaces	797 Spaces	797 Spaces
Total Parking Spaces (2)	6,362 Spaces	6,634 Spaces	272 Spaces

(1) ADA spaces only.

(2) Under the proposed Project, there will be a loss of 12 on-street spaces along Presidents Way, resulting in a net gain of 260 parking spaces.

PCI projects the following utilization for the proposed Garage by day/time:

	<i>Projected Occupancy</i>	<i>Number of Turns</i>	<i>Estimated Tickets per Day</i>
Weekdays – Day	50%	2	798
Weekdays – Evening	36%	1	286
Weekends – Day	61%	2	970
Weekends – Evening	49%	1	389
Total Visitor Demand	49%		

The PCI projection of visitor parking utilization of the Garage takes into account the following supporting factors:

1. *The relatively small supply of available free parking within walking distance of the Plaza de Panama.* The map in Exhibit 1 shows the remaining surface parking lots and their relative distance in mileage and walking time from the Plaza. Industry standards for transit ridership and shopping malls typically assume a maximum walking distance of one-quarter mile. KMA has conservatively assumed a maximum

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walking distance for visitors to the Park of 3/8 mile. Once the Project is complete, there will be 1,108 free surface parking spaces remaining within 3/8 mile of the Plaza de Panama. This inventory is distributed as follows:

<i>Lots Mostly within 3/8 Mile of Plaza de Panama</i>	
Palisades Lot	276 Spaces
Gold Gulch Lot	43 Spaces
Pepper Grove Lot	120 Spaces
Fleet Space Theater Lot	166 Spaces
Casa de Balboa Lot	86 Spaces
Natural Museum Lot	98 Spaces
North/South Carousel Lots	292 Spaces
Botanical Building Lot	27 Spaces
Total Parking Spaces	1,108 Spaces

The above parking lots have extremely limited capacity during the day on both weekdays and weekends, as shown below:

<i>Available Parking Capacity Within 3/8 Mile of Plaza de Panama</i>			
	<u>Total</u>	<u>Occupied</u>	<u>Utilization</u>
Weekdays	1,108 Spaces	1,012 Spaces	91%
Weekends	1,108 Spaces	921 Spaces	83%
Source: Rick Engineering, 2010.			

In accordance with parking industry standards, KMA assumes that visitors perceive parking lots to be full at 85% occupancy. Therefore, these existing utilization levels essentially represent full occupancy.

2. *Willingness of patrons to pay for convenient parking.* The proposed Garage will contain a large supply of parking spaces in a central location close to the heart of the Park. The renovated Plaza de Panama, West El Prado, Plaza de California, and Esplanade are likely to be prime destinations for Park patrons. The Garage is strategically located to serve these destinations, as well as the proposed rooftop park and associated amenities and facilities. This point is further emphasized by the high level of “hunting” for close-in parking at the core of the Park that currently occurs. Additionally, recent “smart metering” technology implemented in other cities has

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demonstrated that patrons will pay a parking premium for close-in, convenient parking.

3. *Relatively low parking rates proposed for the Garage.* The parking fee proposed for the Garage, \$5 for up to five hours, is relatively low, i.e., as little as \$1 per hour (depending on length of stay). This can be compared with rates of \$8 to \$24 for a five-hour period in Downtown San Diego, and rates of \$1.00 to \$1.25 per hour at City parking meters. The parking meter rates translate to up to \$6.25 for a 5-hour period.

As a further measure of comparison, a number of major visitor destinations in the San Diego region charge significantly more for parking: \$14 at SeaWorld; \$12 at LegoLand; \$12 at Knott's Soak City Water Park; and \$10 at Wild Animal Park.

D. KMA Analysis of Parking Demand

KMA prepared an independent analysis of the potential visitor parking utilization of the proposed Garage. Specifically, KMA addressed a "worst case" scenario in which all visitors to the core area of the Park are assumed to seek free parking alternatives within the Central Mesa before choosing to park in the Garage. Under this scenario, KMA assumed that Park visitors would fill all parking lots within a 3/8-mile ring, or an approximately 9-minute walk (at a leisurely pace of 2.5 miles per hour), of the Plaza de Panama.

As shown in Exhibit 1, there are nine (9) lots that completely fall within 3/8 mile of the Plaza de Panama. Portions of the Federal lot, Zoo lot, and the Inspiration lots fall within the 3/8-mile ring from the Plaza. The KMA parking demand analysis for the Garage excluded the Zoo and Inspiration lots as potential free parking inventory. The portion of the Zoo parking lot closest to the Plaza is the first to fill up on a daily basis, and the Inspiration lots are located across Park Boulevard, a major four-lane road.

Most of the Federal lot falls outside the 3/8-mile ring from the Plaza. There are a number of reasons why free parking at the Federal lot is unlikely to compete with the proposed Garage. In addition to the distance from the Plaza, the Federal lots are located downhill from visitor destinations in the core area of the Park. The southwestern portion of the lot is also perceived as remote from most visitor destinations in the Park. However, in order to be conservative in testing demand for the proposed Garage, KMA assumed that visitors would in fact use 90% of the remaining available capacity in the Federal lot before choosing to park in the Garage.

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Based on the foregoing assumptions regarding existing parking utilization and the competitive supply of free parking spaces after the Project is complete, KMA estimates unmet parking demand within the Central Mesa of 461 spaces on weekdays and 280 spaces on weekend days, as shown below:

<i>Unmet Parking Demand Within 3/8 Mile of Plaza de Panama</i>		
	<u>Weekdays</u>	<u>Weekend Days</u>
Current Utilization, Closed Lots	552 Spaces	527 Spaces
Available Capacity, Remaining Free Lots (1)	91 Spaces	247 Spaces
Unmet Parking Demand	461 Spaces	280 Spaces

(1) Includes all remaining free lots from Carousel North to Palisades, plus 90% of available capacity at the Federal lot, based on maximum occupancy of 85%.

Using the current ratio of daytime vs. evening parking utilization, KMA formulated estimates of unmet parking demand for weekday vs. weekend, day vs. evening, summarized below:

<i>Deficit of Free Parking Spaces within 3/8 Mile of Plaza</i>	
Weekdays – Day	461 Spaces
Weekdays – Evening	365 Spaces
Weekends – Day	280 Spaces
Weekends – Evening	246 Spaces

This unmet parking demand translates to the following projected utilization for the Garage by day/time:

	<i>Projected Occupancy</i>	<i>Number of Turns</i>	<i>Estimated Tickets per Day</i>
Weekdays – Day	58%	2	923
Weekdays – Evening	46%	1	365
Weekends – Day	35%	2	559
Weekends – Evening	31%	1	246
Total Visitor Demand	47%		

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Conclusion

As shown above, the KMA parking utilization analysis yields total visitor parking demand equal to an average occupancy of 47%, as compared to the PCI projection of 49%. The KMA parking utilization projection is higher on weekdays, and lower on weekends, when compared with the PCI projection. However, as discussed in the next section, KMA finds that the revenue generation from the two utilization projections is essentially the same.

E. Projected Visitor Parking Revenues

The previous section summarized PCI's approach to projecting parking utilization for the proposed Garage. PCI then used the projected parking utilization, and a parking rate of \$5.00 per ticket, to estimate achievable revenues from visitor parking in the Garage. On this basis, PCI estimated potential visitor parking revenues in a typical operating year totaling \$1,933,600 (2012 dollars).

Similarly, the KMA estimate of parking utilization, as described in the previous section, combined with a parking rate of \$5.00 per ticket, yields total potential visitor parking revenues in a typical operating year of \$1,942,800 (2012 dollars). This revenue projection is nominally higher than the PCI revenue projection, even though the KMA utilization projection is lower than the PCI utilization projection. The reason for this difference relates to the distribution of parking utilization between weekdays and weekends assumed in the PCI vs. KMA projections. ⁽¹⁾

Conclusion

Based on the foregoing analysis, KMA essentially concurs with the PCI projection of visitor parking revenues.

(1) KMA projects lower visitor parking demand on weekend days than PCI. As discussed in the next section, both the KMA and PCI revenue projections assume that special events will generate higher parking rates and revenues on certain weekend days. This special event parking utilization replaces transient visitor parking revenue on those weekend days. Since PCI assumes more visitor parking utilization on weekend days than KMA, there is a greater impact on visitor revenues as a result of special event parking.

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F. Special Event Revenues

PCI projects parking revenue related to special events of \$364,000 (2012 dollars) in a typical operating year of operations. This projection assumes that the entire Garage, net of the valet parking operator's component, would be devoted to special event parking when "Peak" and "Major" events occur. The following frequency, parking charges, and total revenues are assumed:

	<i>Frequency</i>	<i>Parking Rate</i>	<i>Estimated Tickets</i>	<i>Typical Operating Year Revenue (1)</i>
Peak Events	3 per month	\$10 per ticket	700	\$252,000
Major Events	8 per year	\$20 per ticket	700	\$112,000
Total Revenue				\$364,000

(1) Reflects 2012 dollars.

PCI defines Peak events as events attracting between 1,000 and 5,000 additional visitors to the central core area of the Park. PCI defines Major events as events attracting an additional 6,000 or more visitors. The City currently charges between \$10 and \$20 for December Nights. KMA agrees with PCI's assumptions that the City could charge special event rates for the Garage of \$10 for Peak events and \$20 for Major events.

KMA reviewed the calendar of special events in the Park for six months prior and six months forward. As discussed previously, the Park accommodates events throughout the year that range from small gatherings of 100 to 500 people to mega-events of 10,000-plus people. Parking demand from the numerous smaller events is assumed to be captured already in the visitor parking demand projections for the typical operating year discussed above.

Based on review of the annual calendar of events, KMA believes that the PCI projection of parking demand related to special events is realistic to conservative. KMA also notes that certain events require the closure of existing parking lots within the Park, which further decreases the supply of available free parking.

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Based on this review, KMA concludes that the PCI projections for special event parking revenue are achievable.

G. Monthly Parking Pass Revenues

PCI assumed \$60,000 (2012 dollars) in annual revenue in a typical operating year from 100 monthly passes at \$50 apiece. These users are assumed to be staff or volunteers who are willing to pay a relatively small monthly charge for secure parking in a convenient location at the core of the Park. The assumption of 100 passes represents a small share of the total 1,200 employees/volunteers who work in the Prado and Palisades areas of the Park. It should be noted that staff and volunteers who arrive early to the Park, i.e., before most visitors, will have access to the close-in free parking lots such as the Palisades lot. However, staff or volunteers working later shifts will find these lots full and are likely to want the certainty of a parking space in the Garage. The proposed parking pass fee is low when compared with the proposed daily rate for the Garage as well as monthly parking fees in nearby districts. For example, current parking fees in Downtown San Diego typically run \$125 to \$175 per month.

Conclusion

On this basis, KMA finds the PCI projection of monthly parking pass revenue to be reasonable to conservative.

H. Valet Parking Revenues

The PCI revenue projection includes \$118,800 (2012 dollars) in annual revenues in a typical operating year from a valet parking operator. This estimate is based on full-time use of 80 spaces at \$100 per space per month, plus part-time use (weekend nights) of 50 additional spaces at \$4.00 per weekend night. Since valet operators can stack cars, these 130 spaces can accommodate an even greater number of valet customers.

Currently, Sunset Parking operates a valet concession in the Plaza de Panama. Parking patrons pay \$10 for this service. The City does not receive any revenue from Sunset Parking. From August 2004 through July 2005, Sunset Parking served over 20,000 vehicles. Per the El Prado stakeholder meeting conducted by Civitas in 2010, Sunset had approximately 2,000 valet users per month, or an average of 70 cars per day.

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As a means of comparison, KMA notes that valet parking service is currently available in various locations in core areas of Downtown San Diego. Parking patrons pay up to \$20 for this service. According to Ace Parking, valet operators pay between \$150 and \$190 per month to use spaces to store cars. The following compares valet customer charges and valet operator monthly rental costs for the proposed Garage vs. core areas of Downtown.

	Charge to Customer	Valet Operator Monthly Rental
Balboa Park Parking Garage	\$10	\$100
Downtown Core Areas	up to \$20	\$150 - \$190

PCI estimates that a prospective Balboa Park valet concessionaire would pay \$100 per month for designated parking spaces; customers currently pay \$10 for valet parking in the Park. KMA notes that Downtown valet operators charge up to twice this rate, and similarly pay significantly more to rent spaces.

Conclusion

On this basis, KMA agrees with the PCI estimate of revenue from valet operations.

I. Total Parking Revenues

Based on the foregoing, KMA concurs with the PCI projection of total revenues for the Garage in a typical operating year of \$2,476,400 (2012 dollars), or \$3,107 per space, broken out as follows:

Typical Operating Year: Garage Revenue (1)		
Visitor Revenue	\$1,933,600	78.1%
Special Event Revenue	\$364,000	14.7%
Monthly Parking Revenue	\$60,000	2.4%
Valet Parking Revenue	\$118,800	4.8%
Total Garage Revenues	\$2,476,400	100.0%
Per Parking Space	\$3,107	

(1) Reflects 2012 dollars.

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KMA surveyed the performance of local City-owned garages in Downtown San Diego and North Park. The following chart summarizes these garages and their rate structure during peak periods.

<i>City-Owned Garage</i>	<i>Description</i>	<i>Rate Structure</i>
Park It on Market <i>Downtown</i>	500 Spaces 6 Levels	\$3 flat weekday evenings \$8 flat weekend evenings \$12 flat special events
Sixth & K Parkade <i>Downtown</i>	1,000 Spaces 7 Levels	\$5 flat weekday evenings \$9 flat weekend evenings \$12 flat special events
North Park Garage <i>North Park</i>	388 Spaces 5 Levels	\$0.50/hour weekdays \$5 flat evenings

KMA prepared a comparison of revenue projections for the above garages to the projections for the proposed Garage. Revenue sources include visitor, monthly, coupon/early bird, and special events. This comparison is summarized below.

<i>Revenue Per Space, 2011-2012</i>	
Park It on Market	\$3,825 per space
Balboa Park Proposed Parking Garage	\$3,107 per space
Sixth & K Parkade	\$2,616 per space
North Park Garage	\$534 per space

The revenues projected for the proposed Garage fall midway between the two Downtown garages serving the Gaslamp Quarter/East Village, Park It on Market and the Sixth & K Parkade. The Park It on Market garage is centrally located within a popular dining and entertainment district; the Sixth & K Parkade serves the lower Gaslamp Quarter and Petco Park, located directly across the street. Both garages charge higher rates than the rate structure proposed for the Balboa Park Garage. By contrast, the North Park Garage, located in the heart of the North Park business district near University Avenue and 30th Street, has performed poorly. KMA interviewed the former City of San Diego redevelopment project manager for the North Park project area. The North Park Garage was developed by the San Diego Redevelopment Agency in large part to support the rehabilitation of the North Park Theatre. Originally built in 1928, the 730-seat North Park Theatre was successfully renovated and re-opened in 2005. The theatre was hit hard by the economic downturn, resulting in decreases in the number of performances, attendance levels, and ticket sales. In early 2011, the owner, Lyric Opera

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San Diego, attempted to sell the theatre. Not surprisingly, the theatre's challenges have resulted in lower utilization of the garage.

IV. ANALYSIS OF PROJECTED OPERATING EXPENSES

A. Garage Operating Expenses

The proposed Garage will operate on an automated basis. However, the proposed operation assumes the presence of customer service staff to assist parking patrons in using the pay machines. PCI has assumed seven full-time equivalent staff, as follows:

- One manager
- One supervisor
- Five customer service personnel

The PCI estimate of Garage operating expenses in a typical operating year can be summarized as follows:

Typical Operating Year: Garage Operating Expenses (1)		
Payroll Expense	\$283,700	\$356/Space
Repairs & Maintenance	\$100,500	\$126/Space
Administrative Expense	\$163,600	\$205/Space
Other Operating Expense	\$67,500	\$85/Space
Total Expenses	\$615,300	\$772/Space

(1) Reflects 2012 dollars.

KMA interviewed PCI with respect to the supporting rationale for specific operating expense line items in the context of the method of operation proposed for the Garage. KMA also reviewed the PCI estimate of Garage operating expenses relative to parking industry standards and actual expense data from other garages.

According to Walker Parking Consultants, nationally recognized parking consultants, the national average operating cost for a parking garage is \$705 per space per year. A Walker Parking survey of four parking garages (in Arizona, Oregon, Idaho, and Colorado) reported operating expenses ranging from \$567 to \$1,040 per space. (All figures have been adjusted to 2012 dollars based on assumed 3.0% annual escalation.) The surveyed garages ranged in size from 413 to 903 spaces.

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The City of San Diego garages reviewed in the previous section reported the following operating expenses for the most recent operating year:

Operating Expense Per Space, 2011-2012	
Park It on Market	\$1,309 per space
Sixth & K Parkade	\$912 per space
Balboa Park Proposed Parking Garage	\$772 per space
North Park Garage	\$641 per space

As shown above, both of the Gaslamp Quarter/East Village garages, Park It on Market and Sixth & K Parkade, exhibit operating expenses significantly higher than the projection for the Balboa Park Garage. However, these garages employ cashiers, experience high volumes on weekend evenings, and incur costs for security services due to their central urban locations. The North Park Garage, which is also a “manned” garage employing cashiers, has lower operating expenses than the budget proposed for the Balboa Park Garage.

Conclusion

Based on this evaluation, KMA finds the operating expenses projected for the proposed Garage to be reasonable to conservative.

B. Tram Operating Expenses

PCI projects total operating expenses for the proposed tram system in a typical operating year of \$543,200 (2012 dollars), broken out as follows:

Typical Operating Year: Tram Operating Expenses (1)		
Payroll Expense	\$260,900	48.1%
Vehicle Lease Expense	\$150,000	27.6%
Repairs and Maintenance	\$132,300	24.3%
Total Expenses	\$543,200	100.0%

(1) Reflects 2012 dollars.

As shown above, of the total tram operating budget, 48% is associated with payroll and salary expenses; 28% is associated with the lease/purchase of the trams; and the remaining 24% is associated with general repairs and maintenance.

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PCI has assumed seven full-time and two part-time staff for tram operations, as follows:

- One supervisor
- Six full-time tram drivers
- Two part-time tram drivers

KMA evaluated the reasonableness of this estimate by undertaking the following research steps:

- Interviewed PCI with respect to specific expense categories.
- Reviewed the proposed operation in terms of number of trams, hours and frequency of service, staffing, and payroll.
- Reviewed the Specialty Vehicles proposal for the lease/purchase of three (3) built-to-order Metro Tram sets.
- Interviewed Specialty Vehicles with respect to tram maintenance and repair costs and warranty coverage.

Conclusion

On this basis, KMA finds the estimate of tram operating expenses to be appropriate and consistent with the proposed operation.

V. ANALYSIS OF PROJECTED OPERATING CASH FLOW

A. Ten-Year Operating Cash Flow Projection

PCI prepared a 10-year cash flow projection to determine the financial viability of the proposed Garage. The PCI projection assumes the following escalation in revenues and expenses:

- *Parking Revenues:* Visitor and special event revenues are assumed to increase at 1.0% per year; monthly parking pass and valet revenues are assumed to increase 5.0% every five years.
- *Operating Expenses:* All expenses increase at 2.0% annually, except parking management fees, which are projected to increase at 10% every five years, and group insurance and vehicle fuel for the trams, both of which are projected to increase at 5.0% per year.

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KMA finds the PCI escalation projections to be conservative in that:

- Revenues are projected to increase a maximum rate of 1.0% per year, i.e., substantially lower than inflation.
- Expenses are projected to increase at a rate at least twice the rate of increase in revenues.
- “High risk” expense line items -- group insurance and vehicle fuel -- are projected to increase at substantially higher rates.

It is customary to escalate expenses at least 3.0% per year. As such, KMA tested an even more conservative scenario where all operating expenses are projected to escalate at least 3.0% per year. This expense escalation factor represents a typical standard in long-term operating cash flow projections. The table below illustrates the projected NOI for the 10-year period based on this KMA assumption:

Net Operating Income: 10-Year Cash Flow with Operating Expense Escalation at 3.0% (1)		
	<u>NOI</u>	<u>% Change</u>
Year 1	\$1,318,000	n/a
Year 2	\$1,293,500	-1.9%
Year 3	\$1,285,400	-0.6%
Year 4	\$1,276,500	-0.7%
Year 5	\$1,266,700	-0.8%
Year 6	\$1,412,100	11.5%
Year 7	\$1,431,000	1.3%
Year 8	\$1,411,600	-1.4%
Year 9	\$1,389,800	-1.5%
Year 10	\$1,365,200	-1.8%

(1) Reflects 2012 dollars.

As shown above, NOI is projected to decline during Years 2 through 5, as a result of increases in operating expenses exceeding the rate of increase in revenue. NOI is at the lowest point in Year 5, estimated at \$1,266,700. Beginning in Year 6, the lease

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payments for the trams and the amortization of the Garage revenue control equipment expire. This results in a significant increase in projected NOI in Year 6 of about 11.5%.

B. Centennial Year Surplus Revenues

The above NOI projection results from utilization of the Garage at a level consistent with existing Park visitation and parking utilization trends. The proposed Garage is expected to be in service no later than December 2014. KMA notes that an extensive Centennial celebration is planned for the Park throughout 2015. The Centennial is expected to include numerous special events. As a result, the Park will attract increased visitation from both San Diegans and tourists. These events may also cause the closure of some of the free surface lots in the Park from time to time. Accordingly, the Garage is expected to experience increased utilization and revenue generation during 2015.

PCI prepared a preliminary estimate of 2015 Garage utilization, assuming eight (8) Peak events per month and 24 Major events throughout the year. Parking revenue from special events increases from \$364,000 in a typical operating year to \$834,000 in the 2015 Centennial year, a gain of \$470,000. As a result, the PCI estimate for the 2015 Centennial year yields total revenue of \$2,725,800. This reflects the assumption that special event parking replaces transient visitor parking at certain times/days for an overall net increase in total parking revenue of \$249,400 per year. This incremental parking revenue represents an increase of 68% over the special event parking revenues, and 10% over the total parking revenues, projected for the typical operating year, as summarized below.

<i>Incremental Parking Revenue Comparison: (1)</i>			
\$249,400 Incremental Revenue	over	\$364,00 Special Event Parking	68% Increase
\$249,400 Incremental Revenue	over	\$2,476,400 Total Parking Revenue	10% Increase

(1) Reflects 2012 dollars.

The incremental revenue of \$249,400 could be set aside into an operating reserve fund for the Garage. Assuming that these funds can be invested at an average annual interest rate of 2%, KMA estimates that the operating reserve fund could increase to \$298,000 during the first 10 years of operations.

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VI. LIMITING CONDITIONS

1. KMA has made extensive efforts to confirm the accuracy and timeliness of the information contained in this document. Such information was compiled from a variety of sources deemed to be reliable including state and local government, planning agencies, real estate brokers, and other third parties. Although KMA believes all information in this document is correct, it does not guarantee the accuracy of such and assumes no responsibility for inaccuracies in the information provided by third parties. Further, no guarantee is made as to the possible effect on development of current or future federal, state, or local legislation including environmental or ecological matters.
2. The accompanying projections and analyses are based on estimates and assumptions which were developed using currently available economic data, project specific data, and other relevant information. It is the nature of forecasting, however, that some assumptions may not materialize and unanticipated events and circumstances may occur. Such changes are likely to be material to the projections and conclusions herein and, if they occur, require review or revision of this document.
3. The analysis assumes that neither the local nor national economy will experience a major recession. If an unforeseen change occurs in the economy, the conclusions contained herein may no longer be valid.
4. The findings are based on economic rather than political considerations. Therefore, they should be construed neither as a representation nor opinion that government approvals for development can be secured.
5. The analysis, opinions, recommendations and conclusions of this document are KMA's informed judgment based on market and economic conditions as of the date of this report. Due to the volatility of market conditions and complex dynamics influencing the economic conditions of the building and development industry, conclusions and recommended actions contained herein should not be relied upon as sole input for final business decisions regarding current and future development and planning.
6. Any estimates of income and/or expense projections are based on the best available project-specific data as well as the experiences of similar projects. They are not intended to be projections of the future for the specific project. No warranty

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or representation is made that any of the estimates or projections will actually materialize.

attachments

Pedestrian Walking Distances - Proposed Conditions

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APPENDIX

**PROJECTED REVENUES, EXPENSES, AND
NET OPERATING INCOME**

BALBOA PARK PARKING GARAGE

**Parking Concepts, Inc.
May 23, 2012**

TABLE 1

**PROJECTED PARKING REVENUES - TYPICAL OPERATING YEAR
BALBOA PARK PARKING GARAGE
PLAZA DE PANAMA COMMITTEE**

	Description	Rate	Projections			Typical Operating Year		Percent of Total	
			Occupancy (1)	Turns (2)	Tickets/Day	Monthly	Annual		
I. Visitor Revenue									
	Weekdays (Monday - Friday)	9:00 a.m. - 5:00 p.m.	\$5.00	50%	2	798	\$81,800	\$981,600	
	Weekdays (Monday - Friday)	5:00 p.m. - 10:00 p.m.	\$5.00	36%	1	286	\$29,320	\$351,800	
	Weekends (Saturday & Sunday) (3)	9:00 a.m. - 5:00 p.m.	\$5.00	61%	2	970	\$31,530	\$378,400	
	Weekends (Saturday & Sunday)	5:00 p.m. - 10:00 p.m.	\$5.00	49%	1	389	<u>\$18,480</u>	<u>\$221,800</u>	
	Total Visitor Revenue		Average	49%			\$161,130	\$1,933,600	78.1%
II. Special Event Revenue (3)									
	Special Event Parking - Peak	Three (3) Events / Month	\$10.00	88%	1	700	\$21,000	\$252,000	
	Special Event Parking - Major	Eight (8) Events / Year	\$20.00	88%	1	700	<u>\$9,333</u>	<u>\$112,000</u>	
	Total Special Event Revenue		Average	4%			\$30,333	\$364,000	14.7%
III. Monthly Parking Revenue									
	Alcazar Lots Regular Users	6:00 a.m. - 2:00 a.m. daily	\$50	6%	N/A	50	\$2,500	\$30,000	
	Organ Pavilion Lot Regular Users	6:00 a.m. - 2:00 a.m. daily	\$50	6%	N/A	50	<u>\$2,500</u>	<u>\$30,000</u>	
	Total Monthly Parking Revenue		Average	13%			\$5,000	\$60,000	2.4%
IV. Valet Parking Revenue									
	Designated Valet Spaces (3)	Lowest Level	\$100/month	10%	N/A	80	\$8,000	\$96,000	
	Special Event Valet Revenue	50 cars / weekend night	\$4.00	incl. below	N/A	50	<u>\$1,900</u>	<u>\$22,800</u>	
	Total Valet Parking Revenue		Average	11%			\$9,900	\$118,800	4.8%
V. Total Parking Revenue			Average	76%			\$206,363	\$2,476,400	100.0%

(1)Occupancy percentage based on car counts, not tickets issued.

(2)Number of turns based on average stay of three hours (2004 Jones and Jones Study Appendix G - Page 76).

(3) Per PCI, May 16, 2012.

TABLE 2

**GARAGE OPERATING EXPENSES - TYPICAL OPERATING YEAR
BALBOA PARK PARKING GARAGE
PLAZA DE PANAMA COMMITTEE**

Number of Spaces		797 Spaces		
	Monthly	Annual		Notes
I. Payroll				
Manager Salary (1 FTE)	\$4,000	\$48,000		
Supervisor Wages (1 FTE)	\$2,600	\$31,194		\$15/hr @ 21.7 days/month
Customer Service Wages (5 FTE)	\$9,857	\$118,287		26 x \$12.50 wage x 30.33
Vacation Accrual	\$658	\$7,899		4.0% of Wages
Payroll Taxes	\$2,263	\$27,151		13.2% of Wages and Vacation
Workers' Compensation	\$1,811	\$21,729		10.6% of Wages and Vacation
Group Insurance (7 FTE)	\$2,450	\$29,400		\$350 Per Full Time Employee/Month
Total Payroll	\$24,000	\$283,660		\$356 Per Space/Year
II. Garage Repairs & Maintenance				
Steam Cleaning	\$654	\$7,850		10 Cleanings per Year
Contract Sweeping	\$785	\$9,420		
Trash Removal	\$500	\$6,000		
Pest Control	\$500	\$6,000		
Lights	\$250	\$3,000		
Fire Alarm Monitoring	\$150	\$1,800		
Elevator Maintenance	\$1,200	\$14,400		
Graffiti Removal	\$250	\$3,000		
Landscaping	\$250	\$3,000		
Parking Equipment Repair & Maintenance	\$250	\$3,000		
Painting	\$250	\$3,000		
Depreciation of Revenue Control Equipment	\$3,333	\$40,000		
Total Garage Repairs & Maintenance	\$8,000	\$100,470		\$126 Per Space/Year
III. Administrative Expenses				
Business Licenses	\$42	\$500		
General Liability Insurance	\$942	\$11,304		
Property Insurance	\$3,925	\$47,100		
Damage Claims	\$500	\$6,000		
Uniforms	\$455	\$5,456		
Telephone/Radios	\$250	\$3,000		
Tickets, Keycards, & Validations	\$250	\$3,000		
First Aid Supplies	\$100	\$1,200		
Stationary & Office Supplies	\$200	\$2,400		
Supplies - Water	\$100	\$1,200		
Signage	\$200	\$2,400		
Barricades & Cones	\$500	\$6,000		
Professional Fees	\$2,000	\$24,000		
Credit Card Processing Fees	\$4,166	\$49,992		
Total Administrative Expenses	\$14,000	\$163,550		\$205 Per Space/Year
IV. Other Operating Expenses				
Utilities	\$3,500	\$42,000		
Garage Reserve Fund	\$1,635	\$19,625		
Miscellaneous Expenses	\$500	\$6,000		
Total Other Operating Expenses	\$6,000	\$67,630		\$85 Per Space/Year
V. Subtotal Operating Expenses		\$52,000	\$615,300	\$772 Per Space/Year
VI. Tram Operating Expenses (1)		\$45,000	\$543,200	\$682 Per Space/Year
VII. Total Operating Expenses		\$97,000	\$1,158,500	\$1,454 Per Space/Year

TABLE 3

TRAM OPERATING EXPENSES - TYPICAL OPERATING YEAR (1)
BALBOA PARK PARKING GARAGE
PLAZA DE PANAMA COMMITTEE

	<u>Monthly</u>	<u>Annual</u>	
I. Payroll			
Manager Salary (1 FTE)	\$0	\$0	Included in Garage Manager Salary
Supervisor Wages (1 FTE)	\$2,580	\$30,960	Dedicated Supervisor position
Tram Driver Wages (6 FTE + 2PT)	\$12,401	\$148,814	Propose three trams for peak periods (2)
Vacation Accrual	\$599	\$7,191	4.0% of Wages
Payroll Taxes	\$2,060	\$24,717	13.2% of Wages & Vacation
Workers' Compensation	\$1,648	\$19,781	10.6% of Wages & Vacation
Group Insurance (7 FTE)	<u>\$2,450</u>	<u>\$29,400</u>	\$350 Per Full Time Employee/Month
Total Payroll	\$21,700	\$260,860	\$86,953 Per Tram/Year
II. Shuttle Tram Operating Expenses			
Business Licenses	\$42	\$500	Separate Business License
Substance Abuse Testing Program	\$250	\$3,000	Includes pre-employment testing
General Liability Insurance	\$1,500	\$18,000	Based on tram route and ridership
Vehicle Insurance	\$900	\$10,800	Based on tram cost
Vehicle Lease Expense (3)	\$12,500	\$150,000	3 trams over 72 month lease term
Vehicle Fuel	\$1,355	\$16,254	750 trips/wk x .5 mile @ 5mpg x \$3.50/gal
Vehicle Repairs and Maintenance	\$2,000	\$24,000	Increase of 2%/years 1-5, then +20%/year
Vehicle License Fees	\$400	\$4,800	Based on experience
Damage Claims	\$1,000	\$12,000	Based on experience
Uniforms	\$585	\$7,015	\$15/week per employee
Telephone/Radios	\$200	\$2,400	Based on experience
Tickets, Keycards, & Validations	\$0	\$0	Not Applicable
First Aid Supplies	\$100	\$1,200	Based on experience
Stationary & Office Supplies	\$200	\$2,400	
Supplies - Water	\$100	\$1,200	Based on experience
Signage	\$200	\$2,400	Based on experience
Barricades & Cones	\$200	\$2,400	Based on experience
Professional Fees	<u>\$2,000</u>	<u>\$24,000</u>	Tram management fees
Total Shuttle Tram Operating Expenses	\$23,500	\$282,370	\$94,123 Per Tram/Year
III. Total Expenses	\$45,200	\$543,200	\$181,067 Per Tram/Year

(1) Tram operating expenses based on three sets of power units plus three trailers for a capacity of 100 passengers each.

(2) Tram coverage varies by time of year; daily tram coverage from 6:00 a.m. to midnight.

(3) Trams will be leased during construction phase. The remaining term and lease payments will be allocated to the parking structure operation at the time garage operations commence.

TABLE 4

**NET OPERATING INCOME - TYPICAL OPERATING YEAR
 BALBOA PARK PARKING GARAGE
 PLAZA DE PANAMA COMMITTEE**

	<u>797-Space Garage</u>		
	<u>Total Annual</u>	<u>Per Space/Year</u>	<u>Per Space/Month</u>
I. <u>Parking Revenue</u>			
Transient Visitor Parking	\$1,933,600	\$2,426	\$202
Special Event Revenue	\$364,000	\$457	\$38
Monthly Revenue	\$60,000	\$75	\$6
Valet Parking Revenue	<u>\$118,800</u>	<u>\$149</u>	<u>\$12</u>
Total Parking Revenue	\$2,476,400	\$3,107	\$259
II. <u>Operating Expenses</u>			
(Less) Payroll Expenses	(\$283,660)	(\$356)	(\$30)
(Less) Garage Repairs and Maintenance	(\$100,470)	(\$126)	(\$11)
(Less) Administrative Expenses	(\$163,550)	(\$205)	(\$17)
(Less) Other Operating Expenses	<u>(\$67,600)</u>	<u>(\$85)</u>	<u>(\$7)</u>
Subtotal Operating Expenses	(\$615,280)	(\$772)	(\$64)
(Less) Tram Operating Expenses	<u>(\$543,200)</u>	<u>(\$682)</u>	<u>(\$57)</u>
Total Operating Expenses	(\$1,158,480)	(\$1,454)	(\$121)
III. Net Operating Income	\$1,317,920	\$1,654	\$138

TABLE 5

**10-YEAR CASH FLOW PROJECTION
BALBOA PARK PARKING GARAGE
PLAZA DE PANAMA COMMITTEE**

		<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>	<u>Year 7</u>	<u>Year 8</u>	<u>Year 9</u>	<u>Year 10</u>
I. Revenue											
Transient Visitor Parking (1)	1.0%	\$1,933,600	\$1,952,936	\$1,972,465	\$1,992,190	\$2,012,112	\$2,032,233	\$2,052,555	\$2,073,081	\$2,093,812	\$2,114,750
Special Event Revenue	1.0%	\$364,000	\$367,640	\$371,316	\$375,030	\$378,780	\$382,568	\$386,393	\$390,257	\$394,160	\$398,101
Monthly Revenue (Esc. In Year 6)	5.0%	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000
Valet Parking Revenue (Esc. In Year 6)	5.0%	\$118,800	\$118,800	\$118,800	\$118,800	\$118,800	\$124,740	\$124,740	\$124,740	\$124,740	\$124,740
Total Revenue		\$2,476,400	\$2,499,376	\$2,522,582	\$2,546,020	\$2,569,692	\$2,602,541	\$2,626,689	\$2,651,078	\$2,675,712	\$2,700,591
II. Payroll Related											
Salary & Wages	2.0%	\$197,481	\$201,431	\$205,459	\$209,568	\$213,760	\$218,035	\$222,396	\$226,844	\$231,380	\$236,008
Vacation Accrual	2.0%	\$7,899	\$8,057	\$8,218	\$8,383	\$8,550	\$8,721	\$8,896	\$9,074	\$9,255	\$9,440
Payroll Taxes	2.0%	\$27,151	\$27,694	\$28,248	\$28,813	\$29,389	\$29,977	\$30,577	\$31,188	\$31,812	\$32,448
Workers' Compensation	2.0%	\$21,729	\$22,164	\$22,607	\$23,059	\$23,520	\$23,991	\$24,471	\$24,960	\$25,459	\$25,968
Group Insurance (7 FTE)	5.0%	\$29,400	\$30,870	\$32,414	\$34,034	\$35,736	\$37,523	\$39,399	\$41,369	\$43,437	\$45,609
Total Payroll		\$283,660	\$290,216	\$296,946	\$303,858	\$310,956	\$318,247	\$325,738	\$333,434	\$341,344	\$349,474
III. Garage Repairs & Maintenance											
Parking Equipment Repair and Maintenan	2.0%	\$3,000	\$20,400	\$20,808	\$21,224	\$21,649	\$22,082	\$22,523	\$22,974	\$23,433	\$23,902
General Repairs and Maintenance	2.0%	\$57,470	\$58,619	\$59,792	\$60,988	\$62,207	\$63,452	\$64,721	\$66,015	\$67,335	\$68,682
Depreciation of Revenue Control Equipment		\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$0	\$0	\$0	\$0	\$0
Total Repairs & Maintenance Expenses		\$100,470	\$119,020	\$120,600	\$122,210	\$123,860	\$85,530	\$87,240	\$88,990	\$90,770	\$92,580
IV. Administrative Expenses	2.0%	\$163,550	\$166,341	\$169,188	\$172,092	\$175,053	\$180,474	\$183,556	\$186,699	\$189,905	\$193,175
V. Other Operating Expenses											
Utilities	2.0%	\$42,000	\$42,840	\$43,697	\$44,571	\$45,462	\$46,371	\$47,299	\$48,245	\$49,210	\$50,194
Garage Reserve Fund	2.0%	\$19,625	\$20,018	\$20,418	\$20,826	\$21,243	\$21,668	\$22,101	\$22,543	\$22,994	\$23,454
Miscellaneous Expenses	2.0%	\$6,000	\$6,120	\$6,242	\$6,367	\$6,495	\$6,624	\$6,757	\$6,892	\$7,030	\$7,171
Total Other Operating Expenses		\$67,600	\$68,978	\$70,357	\$71,764	\$73,199	\$74,663	\$76,157	\$77,680	\$79,233	\$80,818
VI. Tram Operating Expenses (2)		\$543,200	\$552,500	\$562,000	\$571,700	\$581,700	\$482,700	\$463,000	\$480,800	\$500,400	\$522,200
VII. Subtotal Operating Expenses		\$1,158,480	\$1,197,054	\$1,219,091	\$1,241,623	\$1,264,769	\$1,141,615	\$1,135,690	\$1,167,603	\$1,201,653	\$1,238,247
VIII. Net Operating Income											
Total Revenue		\$2,476,400	\$2,499,376	\$2,522,582	\$2,546,020	\$2,569,692	\$2,602,541	\$2,626,689	\$2,651,078	\$2,675,712	\$2,700,591
(Less) Expenses		(\$1,158,480)	(\$1,197,054)	(\$1,219,091)	(\$1,241,623)	(\$1,264,769)	(\$1,141,615)	(\$1,135,690)	(\$1,167,603)	(\$1,201,653)	(\$1,238,247)
Net Operating Income		\$1,317,920	\$1,302,322	\$1,303,491	\$1,304,396	\$1,304,923	\$1,460,926	\$1,490,998	\$1,483,475	\$1,474,059	\$1,462,344

(1)Revenue growth assumption of 1%/year based on 2004 Jones and Jones Study quoting SANDAG projections (page 82).

(2)Tram operating expenses based on three sets of power units plus three trailers for a capacity of 100 passengers each.

TABLE 6

**10-YEAR CASH FLOW PROJECTION - TRAM OPERATING EXPENSES
BALBOA PARK PARKING GARAGE
PLAZA DE PANAMA COMMITTEE**

		<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>	<u>Year 7</u>	<u>Year 8</u>	<u>Year 9</u>	<u>Year 10</u>
I. Payroll Related											
Salary & Wages	2.0%	\$179,774	\$183,369	\$187,037	\$190,778	\$194,593	\$198,485	\$202,455	\$206,504	\$210,634	\$214,847
Vacation Accrual	2.0%	\$7,191	\$7,335	\$7,481	\$7,631	\$7,784	\$7,939	\$8,098	\$8,260	\$8,425	\$8,594
Payroll Taxes	2.0%	\$24,717	\$25,211	\$25,716	\$26,230	\$26,754	\$27,290	\$27,835	\$28,392	\$28,960	\$29,539
Workers' Compensation	2.0%	\$19,781	\$20,177	\$20,580	\$20,992	\$21,411	\$21,840	\$22,276	\$22,722	\$23,176	\$23,640
Group Insurance (7 FTE)	5.0%	<u>\$29,400</u>	<u>\$30,870</u>	<u>\$32,414</u>	<u>\$34,034</u>	<u>\$35,736</u>	<u>\$37,523</u>	<u>\$39,399</u>	<u>\$41,369</u>	<u>\$43,437</u>	<u>\$45,609</u>
Total Payroll		\$260,863	\$266,962	\$273,227	\$279,664	\$286,279	\$293,076	\$300,064	\$307,247	\$314,633	\$322,229
II. Shuttle Tram Operating Expenses											
Business Licenses	2.0%	\$500	\$510	\$520	\$531	\$541	\$552	\$563	\$574	\$586	\$598
Substance Abuse Testing Program	2.0%	\$3,000	\$3,060	\$3,121	\$3,184	\$3,247	\$3,312	\$3,378	\$3,446	\$3,515	\$3,585
General Liability Insurance	2.0%	\$18,000	\$18,360	\$18,727	\$19,102	\$19,484	\$19,873	\$20,271	\$20,676	\$21,090	\$21,512
Vehicle Insurance	2.0%	\$10,800	\$11,016	\$11,236	\$11,461	\$11,690	\$11,924	\$12,163	\$12,406	\$12,654	\$12,907
Vehicle Lease Expense (1)		\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$36,000	\$0	\$0	\$0	\$0
Vehicle Fuel	5.0%	\$16,254	\$17,067	\$17,920	\$18,816	\$19,757	\$20,745	\$21,782	\$22,871	\$24,015	\$25,215
Vehicle Repairs and Maintenance (2)	2.0%	\$24,000	\$24,480	\$24,970	\$25,469	\$25,978	\$31,174	\$37,409	\$44,891	\$53,869	\$64,643
Vehicle License Fees	2.0%	\$4,800	\$4,896	\$4,994	\$5,094	\$5,196	\$5,300	\$5,406	\$5,514	\$5,624	\$5,736
Damage Claims	2.0%	\$12,000	\$12,240	\$12,485	\$12,734	\$12,989	\$13,249	\$13,514	\$13,784	\$14,060	\$14,341
Uniforms	2.0%	\$7,015	\$7,155	\$7,298	\$7,444	\$7,593	\$7,745	\$7,900	\$8,058	\$8,219	\$8,383
Telephone/Radios	2.0%	\$2,400	\$2,448	\$2,497	\$2,547	\$2,598	\$2,650	\$2,703	\$2,757	\$2,812	\$2,868
Tickets, Keycards, & Validations	2.0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
First Aid Supplies	2.0%	\$1,200	\$1,224	\$1,248	\$1,273	\$1,299	\$1,325	\$1,351	\$1,378	\$1,406	\$1,434
Stationary & Office Supplies	2.0%	\$2,400	\$2,448	\$2,497	\$2,547	\$2,598	\$2,650	\$2,703	\$2,757	\$2,812	\$2,868
Supplies - Water	2.0%	\$1,200	\$1,224	\$1,248	\$1,273	\$1,299	\$1,325	\$1,351	\$1,378	\$1,406	\$1,434
Signage	2.0%	\$2,400	\$2,448	\$2,497	\$2,547	\$2,598	\$2,650	\$2,703	\$2,757	\$2,812	\$2,868
Barricades & Cones	2.0%	\$2,400	\$2,448	\$2,497	\$2,547	\$2,598	\$2,650	\$2,703	\$2,757	\$2,812	\$2,868
Professional Fees	2.0%	<u>\$24,000</u>	<u>\$24,480</u>	<u>\$24,970</u>	<u>\$25,469</u>	<u>\$25,978</u>	<u>\$26,498</u>	<u>\$27,028</u>	<u>\$27,568</u>	<u>\$28,120</u>	<u>\$28,682</u>
Total Shuttle Tram Operating Expenses		\$282,369	\$285,504	\$288,726	\$292,038	\$295,443	\$189,621	\$162,927	\$173,572	\$185,810	\$199,943
III. Total Expenses		\$543,200	\$552,500	\$562,000	\$571,700	\$581,700	\$482,700	\$463,000	\$480,800	\$500,400	\$522,200

(1)Expense in Year 6 reflects a buyout of the operating lease at the residual rate of 5.0% of original cap cost.

(2)Years 1 through 5 escalated at 2.0%; remaining years escalated at 20.0%.



PLAZA DE PANAMA IMPROVEMENT AGREEMENT

Plaza de Panama Committee
and the City of San Diego

June 2012

PLAZA DE PANAMA IMPROVEMENT AGREEMENT

This Plaza de Panama Improvement Agreement (Agreement) is entered into by and between the City of San Diego (City), a California municipal corporation, and the Plaza de Panama Committee (Committee), a California non-profit public benefit corporation, for the funding, design and construction of improvements to Balboa Park.

RECITALS

- A. Balboa Park is a 1,200 acre urban cultural park in San Diego, California, owned and operated by City. Balboa Park's present day look and feel continues to reflect the design and development created to host the 1915 Panama-California International Exposition. Balboa Park's central core, including the historic Exposition buildings, was declared a National Historic Landmark and National Historic Landmark District in 1977, and has been placed on the National Register of Historic Places.
- B. The Committee is a nonprofit public benefit corporation (tax-exempt under Section 501(c)(3) of the Internal Revenue Code and Section 23701 of the California Revenue and Taxation Code). The Committee was organized to accept, receive and administer contributions, gifts, legacies, bequests, devises and property (collectively, Funds), and to use and expend such Funds in accomplishing the improvements described herein.
- C. As an integral part of the plan for the 1915 Panama-California International Exposition, the Plaza de Panama was established and designed to serve as a central, sunlit, and airy plaza surrounded by beautiful architecture. The Plaza de Panama was the focus around which the 1915 Exposition revolved. The California Pacific International Exposition was held in Balboa Park in 1935-1936. In the periods after and between the Expositions, the Plaza de Panama was converted into a parking lot. The City's planning documents for Balboa Park have long reflected a plan to restore the Plaza de Panama to dedicated pedestrian space. The Balboa Park Master Plan sets forth the City's goal, among others, to create a more pedestrian oriented environment, reduce automobile and pedestrian conflicts, and minimize through traffic, along with improving public access and the circulation system through the Park while deemphasizing the automobile. The Balboa Park Master Plan specifically calls for elimination of parking in the Plaza de Panama and return of the Plaza de Panama to pedestrian use. This improvement is included in the 2010 Unfunded Park Improvements List prepared by the City's Park and Recreation Department.
- D. The Committee was formed by Dr. Irwin Jacobs in response to this need. The Committee shares the City's long-standing commitment to nurture and enhance the natural, cultural, and historical resources of Balboa Park for its citizens and visitors, and the desire to sustain and improve Balboa Park as a world class urban and cultural park and source of civic pride.

- E. The City recognizes that reclaiming and restoring the Plaza de Panama as pedestrian space through modification and relocation of roadways, development of parking, and related improvements (collectively, the Project) is an undertaking of significant cost and effort that requires private financial assistance. The Committee has expressed its willingness to raise and contribute most of the funds for the Project consistent with the City's goals for Balboa Park, and to take a leadership role by sponsoring the Project.
- F. The City and Committee desire to work together to accomplish this long sought after goal of reclaiming and restoring Plaza de Panama along with other improvements consistent with improving parking and pedestrian access at Balboa Park, all to be completed in time for celebration of the Centennial of the 1915 Panama-California International Exposition in 2015.
- G. The Committee, through its engineers, consultants, designers, and contractors, has the relationships, expertise and experience to complete the improvements in a cost-effective, efficient and timely manner.
- H. On behalf of the residents of the City of San Diego, the Mayor and City Council graciously accept this contribution from the Committee, without which these improvements to Plaza de Panama could never be accomplished.

NOW, THEREFORE, for valuable consideration the sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

ARTICLE 1 – SCOPE OF WORK

1.1 Scope of Work. The Committee shall design and accomplish the Project as generally described in Exhibit A, and more specifically described in Environmental Impact Report, Project No. 233958, SCH No. 2011031074 (EIR). All work will be performed in a good and workmanlike manner, lien free and undertaken consistent with the care and skill of one or more qualified design professionals and licensed contractors in California. The work shall also comply with all of the following, and in the event of a conflict, the following order of precedence:

1.1.1 EIR. The requirements of the EIR and its associated Mitigation, Monitoring and Reporting Program (MMRP).

1.1.2 Site Development Permit. Site Development Permit No. 482374 issued by the City.

1.1.3 Contract. This Agreement, including all its exhibits.

1.1.4 Plans and Specifications. The drawings, plans and specifications prepared by the Committee and approved by the City pursuant to Section 1.4.

1.1.5 Bridge Standards. For the structural (but not aesthetic) components of the Centennial Bridge, general design will comply with AASHTO LRFD Bridge Design

Specifications (4th Edition, with California Amendments) and the current edition of the CalTrans Bridge Design Manual, and seismic design will comply with Caltrans Seismic Design Criteria (SDC) Version 1.6 (November 2010). Construction of the structural components of the Centennial Bridge will comply with the 2010 CalTrans Standard Plans and Specifications.

1.1.6 Greenbook. Part 2 and Part 3 of the 2012 edition of Standard Specifications for Public Works Construction (Greenbook) as modified by Part 2 and Part 3 of the 2012 City Supplement.

1.2 Time for Completion. The Committee shall use its best efforts to complete the design and construction of the Project in accordance with the project schedule set forth in Exhibit B. However, it is acknowledged that sequencing, scheduling, and duration are subject to change by agreement of the parties or through events beyond their control.

1.3 Project Cost and Funding. The Committee shall pay for any and all Project costs beyond the City's fixed contribution towards the parking structure set forth in Article 2, and the costs specified in this section as the City's responsibility. Except as otherwise provided in Section 2.6, the Committee is responsible for any unanticipated Project costs, including but not limited to costs associated with differing site conditions, delays, design errors or omissions, change orders, contractor claims, and fees by public agencies other than the City. The cost of City employees' participation in the Project shall be paid by the City. Permits for the Project issued by the City, inspection fees, deposits, utility or connection fees, and other City costs and fees related to the Project shall be provided at the City's expense, or waived by the City as legally permitted.

1.4 Project Design. The Committee shall prepare complete construction level drawings and specifications for the entire Project. The City will review and approve the drawings at mutually agreed intervals of development until permit issuance. Any changes subsequent to the permit issuance shall be reviewed and approved by the City through either a construction change or field change process. The City's approval will not be unreasonably withheld. Any disputes regarding the design of the Project that cannot be resolved by the parties through normal discussions shall be submitted to mediation pursuant to Section 6.3.

1.5 Project Construction. The Committee shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to construct the Project.

1.5.1 Pre-Construction Conference. Prior to commencement of construction, the Committee and the City shall hold a pre-construction conference to discuss the aspects of the work, critical elements of the work schedule, the level of record project documents required, and emergency telephone numbers for all representatives involved in the course of construction.

1.5.2 Notice to Proceed. The Committee shall not commence construction of the Project until it receives a written Notice to Proceed from the City. The Project is anticipated to proceed in the order of the following phases. The Committee may change the order of the

construction phases to the extent such change is consistent with the EIR and the Site Development Permit, with the City's approval, which shall not be unreasonably withheld.

- I. Utility Relocation & Road Construction
- II. Bypass Bridge, Parking Structure, Roads & Rooftop Park
- III. Alcazar Lot & Related Utility Relocation
- IV. Plazas, Esplanade & Promenade

1.5.3 Selection of Contractors. The Committee may use its contractors and suppliers to perform the work, provided such firms are not debarred or suspended by the City, except for the construction of the parking structure. The contractor for the construction of the parking structure shall be selected in accordance with Section 2.3. All contractors, subcontractors and suppliers must be properly licensed in accordance with California law.

1.5.4 Control of the Work Site. Once a Notice to Proceed is issued, the Committee is responsible for the Project site for each phase as the phases commence, including laydown and staging areas. The City shall reasonably cooperate with the Committee to identify and provide adequate laydown and staging areas for each phase of construction. Throughout each phase of construction, the Committee shall keep the site for that phase reasonably free from debris, trash and construction waste to permit the Committee to perform its construction services efficiently, safely and without unreasonably interfering with the use of adjacent land areas. Given the proximity of the Project site to adjacent City uses and activities, the City shall use its best efforts to prevent its uses from unreasonably interfering with the planned construction activities. Upon substantial completion of each phase of the Project, the Committee shall remove all debris, trash, construction waste, materials, equipment, machinery and tools arising from the work or applicable portions thereof to permit the City to occupy that phase of the Project for its intended use.

1.5.5 Permits. The Committee shall obtain all permits necessary to perform the work. Permits issued by the City will be provided to the Committee at no cost.

1.5.6 Project Record Documents. During construction, the Committee shall maintain at the work site a set of blue-line or black-line prints of the construction drawings for Project record document purposes. The Committee shall mark these drawings to indicate the actual installation where the installation varies appreciably from the original construction drawings. Within sixty (60) days of the effective date of this Agreement pursuant to Section 3.1, the City shall provide any design or as-built documents which indicate known existing underground utility locations or other known subsurface features that may affect design or construction of the Project.

1.5.7 Project Safety. The Committee shall be solely responsible for initiating, maintaining and providing all safety precautions and programs related to construction of the Project within the site of each phase. The City shall coordinate with and assist the Committee in providing safety precautions and programs for areas adjacent to the Project site but outside the Committee's possession and control.

1.5.8 Inspections. The City will inspect the construction work at no cost to the Committee. If the City discovers any defective work or work that does not comply with the plans and specifications, the Committee will correct the defective work or bring the work into compliance with the plans and specifications.

1.5.9 Substantial Completion. Except as otherwise provided in Section 2.4 regarding the parking structure, the Committee shall notify the City in writing when it considers each phase of the Project substantially complete. Within fifteen (15) days thereafter, the City shall inspect the Project to determine the status of completion of that phase. If the City does not consider the phase substantially complete, the City will notify the Committee in writing within the above fifteen (15) day period, giving the reasons therefore. If the City considers the phase substantially complete, it will notify the Committee in writing, and include any outstanding punch-list items. From and after substantial completion, the phase of the Project shall be owned, operated and maintained by the City.

1.5.10 Project Acceptance. Upon completion of all outstanding punch-list items for each phase, the City will notify the Committee in writing, formally accepting that phase of the Project. Neither the acceptance nor any prior inspections or failure to inspect shall constitute a waiver by the City of any defects in the work.

1.6 Right of Entry. The City hereby grants the Committee, its officers, employees, consultants, contractors and suppliers, the right to enter the portions of Balboa Park described in the EIR as being utilized to complete the Project, solely and exclusively to design and construct the Project.

1.7 Warranty. The Committee warrants to the City that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the plans or specifications, of good quality, and free of defects in materials and workmanship. The Committee will correct or replace any work not in conformance with this warranty at its own cost and expense, if notified by the City within one year after the date of substantial completion of each phase of the Project. Warranties may be provided to the City through the Committee's contractors pursuant to Section 1.16.

1.8 ADA Compliance. The Committee shall design and construct the Project in compliance with the Americans with Disabilities Act (ADA). The City may evaluate the design of the Project for compliance, but such review shall not relieve the Committee from its responsibility to comply with the Americans with Disabilities Act and related state and federal accessibility regulations.

1.9 Project Records. The Committee shall keep all documents and records related to the Project for a period of five (5) years after the Project is accepted by the City. The Committee shall make such documents and records available to the City for inspection and copying during reasonable office hours. Alternatively, the Committee may turn over possession of all documents and records related to the Project to the City for storage and safekeeping.

1.10 Native American, Biological, Archaeological and Paleontological Resources. The Committee shall provide an archeological monitor, Native American monitor, and a

paleontological monitor during all grading activities and comply with the MMRP. The Committee shall also provide a qualified biologist as required by the MMRP.

1.11 Insurance Requirements. The Committee shall procure insurance as shown in Exhibit C to protect against claims for loss including injuries to persons or damage to property, which may arise out of or in connection with the design and construction of the Project by the Committee, its officers, consultants, designers, contractors, subcontractors and suppliers. The Committee shall maintain this insurance for the duration of this Agreement and at all times thereafter when the Committee is correcting, removing, or replacing work in accordance with this Agreement.

1.11.1 Liabilities. The Committee's liabilities, including but not limited to the Committee's indemnity obligations, under this Agreement shall not be deemed limited in any way to the insurance coverage required by this section.

1.11.2 Proof of Insurance. The Committee shall not begin any construction work under this Agreement until it has provided, and the City has approved, all required insurance certificates and endorsements.

1.11.3 Lapse in Coverage. If any policy of insurance required by this section is canceled or expires, the Committee shall immediately notify the City, cease all work and take reasonable efforts to secure the Project site and eliminate potential dangers to members of the public, including trespassers. Work shall not resume until the Committee provides a replacement policy that complies with the requirements of Exhibit C and is approved by the City.

1.11.4 Alternate Insurance. In lieu of procuring the insurance itself, the Committee may require its consultants, designers, contractors, and other firms that will be present at the Project site to each procure insurance that complies with Exhibit C, including the required endorsements in favor of the City, its elected officials, officers and employees. The Committee may also procure wrap-insurance for some or all of the Project that complies with Exhibit C with the City's approval, which shall not be unreasonably withheld.

1.12 Stormwater Pollution Prevention Program. The Committee shall comply with the City's Stormwater Pollution Prevention Program requirements set forth in Exhibit D and hereby incorporated by reference. The Committee shall defend and indemnify the City against any fines or penalties assessed for violations of the Municipal Separate Storm Sewer System (MS4) Permit No. CAS0108758 (and its successor permits) caused by construction of the Project.

1.13 Hazardous Material. Unless included in the Project, if the Committee encounters onsite material which it reasonably believes to contain hazardous material, it shall immediately stop work and report the condition to the City. The Committee shall comply with applicable laws and regulations and take all appropriate health and safety precautions upon discovery.

1.13.1 Investigation. The Committee shall obtain the services of a licensed consultant to verify the presence or absence of the hazardous material and, in the event such hazardous

material is found to be present, to verify that it has been appropriately removed or rendered harmless.

1.13.2 Remediation. If the material is found to contain hazardous material, the Committee shall render the hazardous material harmless or properly remove, transport and dispose of the hazardous material at an appropriately licensed location. The Committee shall not resume work in the affected area until the material has been removed or rendered harmless.

1.14 Traffic Control. The Committee will comply with all provisions of the City of San Diego Traffic Barricade Manual and any other traffic control provisions as may be provided in the technical specifications. Work shall not begin in the public roadway without an approved traffic control permit. Traffic control plans are not valid until work dates are approved and a traffic control permit is issued by the City. The Committee shall coordinate the traffic control permit application submittal with the work so that no items of work will be delayed. To obtain a traffic control permit, the Committee shall contact the Engineering Traffic Control Section, (858) 495-4741 for an appointment a minimum of two (2) working days prior to starting work, or five (5) working days when the work will affect a traffic signal. The Committee shall provide two (2) copies of the traffic control drawings at the time of the appointment. Upon approval of the Committee's plans, the Traffic Control Section of the Field Engineering Division will issue the permit.

1.15 Graffiti Control. The Committee shall maintain all Project improvements, including any temporary facilities, equipment or other materials in a graffiti-free condition throughout the construction period, until acceptance of the Project by the City. Graffiti encountered on the Project site shall be removed by the Committee within twenty-four (24) hours.

1.16 Performance by Others. The Committee is not and will not become a licensed general contractor. The Committee intends to engage a construction contract coordinator, Kovtun Construction, a California corporation, which is a licensed general contractor (license number 716043), to act on the Committee's behalf with respect to contracting matters for the Project. The Committee may replace Kovtun Construction with another licensed contractor in its sole discretion. All construction shall be performed by licensed contractors. Wherever this Agreement provides for the Committee to perform some action or engage in some activity, it shall be interpreted and deemed to mean that the Committee shall cause such action or activity to be performed by an appropriate person or entity.

ARTICLE 2 – PARKING STRUCTURE

2.1 Bond Financing. If approved by the Mayor and City Council, the City expects to issue City General Fund backed lease revenue bonds to generate construction proceeds for the parking structure (excluding the rooftop park), establish necessary construction and debt service payment accounts and cover appropriate costs of issuance, solely supported by the parking garage revenue. The parking garage revenue is also expected to pay for operation and maintenance of the parking structure and for tram service to and from the Plaza de Panama. The actual amount of proceeds to be generated from the expected offering is dependent on a number of factors,

including the projected amount of the parking garage revenue, bond market conditions, credit assessments, the cost of operating the parking structure, and the cost of tram service.

2.1.1 Bond Proposal. By no later than October 1, 2012, the City shall complete its consideration of a proposal to issue General Fund backed revenue bonds for the construction of the parking structure, in an amount supported solely by anticipated revenue from parking fees for use of the parking structure. The Committee shall demonstrate to the reasonable satisfaction of the City that it has sufficient funding in place to cover the entire cost of the Project, excluding the bond offering portion of the parking structure, prior to the City presenting the bond proposal to the Mayor and City Council for approval. Notwithstanding anything in this Agreement to the contrary, the Mayor and City Council are not obligated to approve the bond issue in the amount recommended by City staff, or to approve the bond issue for the parking structure at all.

2.2 City's Contribution. If bonds are issued, the City shall pay the Committee for the actual cost of constructing the parking structure, including costs which are eligible for reimbursement under Federal Treasury Regulation 1.150-2, in a total amount not to exceed the funds available from the City's issuance of bonds for the Project. Bond funds shall not be used to pay for the rooftop park or construction of any other component of the Project. Payment by the City is anticipated to be less than the total cost to construct the parking structure. Nothing in this Agreement shall obligate the City to make any payment for the construction of the parking structure from money derived from taxes or from any income or revenue of the City other than the revenue bond for the parking structure.

2.2.1 Invoices. The Committee shall submit no more than one invoice monthly, in arrears, for the actual cost incurred in the construction and construction management of the parking structure. With each invoice the Committee shall include copies of bills, invoices, and proof of payment for the items of work included in the invoice.

2.2.2 Progress Payments. The City shall pay undisputed portions of each invoice to the Committee within thirty (30) days of receipt. If the City disputes any portion of an invoice, the City shall notify the Committee in writing within said thirty (30) day period. If revenue bond proceeds are deposited with a trustee, the City will direct the trustee to pay undisputed portions of each invoice within said thirty (30) days. Any disputes that cannot be resolved by the parties through normal discussions shall be submitted to mediation pursuant to Section 6.3.

2.2.3 Retention. The City will retain five percent (5%) of each progress payment to ensure successful completion of the parking structure. The Committee may elect to receive 100 percent of payments without retention by depositing securities of equivalent value with the City, or to have retention deposited with an escrow agent, in accordance with the provisions of California Public Contract Code Section 22300.

2.2.4 Final Payment. Within sixty (60) days after the date of substantial completion of the parking structure pursuant to Section 2.4 and receipt of an application for final payment from the Committee, the City shall release all retained funds less an amount of

one hundred and fifty percent (150%) of the reasonable value of all remaining or incomplete items of work as noted at substantial completion, and any outstanding stop notices.

2.3 Construction Contract. The Committee shall advertise and award a contract for the construction of the parking structure in accordance with all local and state laws that would apply if the City was letting the contract itself. The City shall provide any necessary and reasonable assistance requested by the Committee in advertising and awarding this contract. These requirements include, but are not limited to:

2.3.1 Low Bid. The Committee shall advertise and award the construction contract to the lowest responsible and reliable bidder pursuant to San Diego City Charter (Charter) Section 94 and San Diego Municipal Code (SDMC) Sections 22.3106(a) and 22.3107(a)(4).

2.3.2 Conflict of Interest. To avoid any actual or perceived conflict of interest, a contractor's bid shall not be considered if an officer or board member of the Committee, or a consultant, designer, or construction manager working on the Project, has a financial interest in the contractor.

2.3.3 Subcontractor Listing. The Committee shall require bidders to comply with the Subletting and Subcontracting Fair Practices Act at California Public Contracts Code Sections 4100 through 4114.

2.3.4 Contractor Standards. To be eligible to bid, bidders must be prequalified by the City and complete a pledge of compliance pursuant to SDMC Section 22.3004. Subcontractors must also complete a pledge of compliance. The City shall provide the Committee with the pledge of compliance form for the Committee to include in the solicitation of bids for the work.

2.3.5 Equal Employment Opportunity Program. Bidders must comply with the City's Equal Employment Opportunity Program requirements pursuant to SDMC Sections 22.2701 – 22.2708 and related City rules for public works contracts. The City shall provide the Committee with the forms and requirements bidders need to comply with the program for the Committee to include in the solicitation of bids for the work.

2.3.6 Small and Emerging Local Business Enterprises. Bidders must meet minimum participation levels, to be determined by the City, of small local business enterprises and emerging local business enterprises, or demonstrate good faith efforts to do so, pursuant to SDMC Section 22.3609. The City shall provide the Committee with the minimum participation levels and good faith effort requirements for the Committee to include in the solicitation of bids for the work.

2.3.7 Nondiscrimination in Contracting. Bidders must comply with the City's Nondiscrimination in Contracting Ordinance pursuant to SDMC Sections 22.3501-22.3517.

2.3.8 Performance and Payment Bonds. Pursuant to Charter Section 94 and California Civil Code Section 3247, bidders must submit performance and payment bonds naming the City as the Obligee, each in the full amount of the contract, to guarantee faithful performance, that all materials and workmanship will be free from original or developed defects, and payment of all work. The bonds may be combined into a single document, if desired. A dual rider type bond that names the Committee as the Obligee and the City as an additional Obligee is acceptable.

2.3.9 Bid Bonds. Each bidder must furnish a bond with its bid, in the amount of ten percent (10%) of the bid price to ensure the execution of the contract pursuant to Charter Section 94 and SDMC Section 22.3005(b).

2.3.10 Equal Benefits. Prior to the award of a contract, the winning bidder must certify it provides equal benefits to employees with spouses and employees with domestic partners pursuant to SDMC Sections 22.4301 - 22.4308. The City shall provide the Committee with the equal benefits certification forms for the Committee to include in the solicitation of bids for the work.

2.4 Substantial Completion of Parking Structure. The Committee shall notify the City in writing when it considers the parking structure substantially complete, excluding the rooftop park. Within fifteen (15) days thereafter, the City shall inspect the parking structure to determine the status of completion. If the City does not consider the parking structure substantially complete, the City will notify the Committee in writing within the above fifteen (15) day period, giving the reasons therefore. If the City considers the parking structure substantially complete, it will notify the Committee in writing, and include any outstanding punch-list items.

2.5 Acceptance of Parking Structure. Upon completion of all outstanding punch-list items, the City will notify the Committee in writing. However, the Committee shall remain responsible for the parking structure until after the rooftop park is substantially complete pursuant to Section 1.5.9.

2.6 Changes in Work. If any changes or delays to the design or construction of the parking structure are necessary due to causes beyond the control of the Committee, its consultants, designers, contractors and construction managers, the Committee may issue a change order or amendment to the affected firm(s) as compensation for the changes or delays. The Committee shall request the City's approval before executing a change order or amendment if City funds are included in the compensation to the affected firm(s). The City's approval shall not be unreasonably withheld. Regardless of the number or magnitude of the changes or delays to the design or construction of the parking structure, the City's total contribution shall not exceed the amount of bond funds received for the parking structure. A force majeure event, as defined in Section 3.4, shall entitle the Committee's consultants, designers and contractors to an extension in time, but not to additional compensation.

2.7 Tram Operation. The Committee shall provide free tram service to the public upon commencement of construction of the parking structure and continue such service until

substantial completion of the parking structure. Tram service shall operate between the Plaza de Panama and the Inspiration Point parking lot with a stop at the Pan American parking lot. It is anticipated that tram service will be provided daily generally between 6:00 a.m. and midnight, though operating hours may be reasonably adjusted by the Committee based on actual demand. The number and capacity of the trams in operation shall be that which is reasonably necessary to serve the public, estimated at a maximum to be three trams with a capacity of 100 passengers each, with the actual number of trams in operation fluctuating based on seasonal demands, the time of day and anticipated park attendance and events. The tram operation shall supplement the City's existing red trolley service. All trams shall be ADA/wheelchair accessible. The City shall assume responsibility for the cost and operation of tram service upon substantial completion of the parking structure.

ARTICLE 3 – TERM OF AGREEMENT

3.1 Term of Agreement. This Agreement shall become effective on the date it is fully executed by both parties. This Agreement shall expire one year after the date of acceptance of the Project by the City pursuant to Section 1.5.10, except for Article 5, which shall survive the expiration of this Agreement and continue so long as a viable claim exists.

3.2 Notification of Delay. The Committee shall immediately notify the City in writing if the Committee encounters or anticipates a delay in performing any of its obligations under this Agreement. The Committee shall not be excused from timely performing any of its obligations under this Agreement without the City's written waiver thereof or the City's written consent to an extension of time for such performance, neither of which will be unreasonably withheld.

3.3 Termination for Cause. In the event of a material breach by the Committee, the City may terminate this Agreement for cause prior to the expiration date in Section 3.1. The City shall give fifteen (15) days prior written notice to the Committee of the City's intent to terminate the Agreement and provide the Committee an opportunity to remedy the conditions constituting the default. If the Committee fails to remedy or fails to engage in reasonable actions to cure the conditions constituting default within fifteen (15) days, the City may then terminate the Agreement for cause by delivering written notice of termination to the Committee. The City may not terminate this Agreement as long as the Committee is engaged in reasonable actions to cure the conditions constituting default and initiated the actions within fifteen (15) days of written notice from the City. Upon receipt of written notice of termination, the Committee shall be obligated to restore the Project site to its original condition at its sole cost and expense prior to such termination becoming effective. The Committee shall have no other obligations upon termination of this Agreement and the City shall not be entitled to any other damages or relief from the Committee.

3.4 Committee's Right to Terminate. The Committee may terminate this Agreement for its convenience if either of the events described in Sections 3.4.1 or 3.4.2 occurs. If construction of any component of the Project has commenced upon the Committee's election to terminate this Agreement, then the Committee must restore the Project site to its original condition at its sole cost and expense before exercising its right to terminate this Agreement. The Committee may complete the relocation of underground utilities in lieu of returning the utilities to their original

location, with the City's approval, prior to terminating this Agreement. If the Committee decides to exercise its right to terminate this Agreement pursuant to Section 3.4.1 below, it shall notify the City in writing of its decision within ninety (90) days after the date of the Mayor's or City Council's decision not to issue bonds, or not to issue bonds in an amount sufficient to satisfy Section 3.4.1. Termination shall become effective upon restoration of the Project site to its original condition, or if construction has not commenced, upon receipt by the City of notice of the Committee's decision to terminate this Agreement.

3.4.1 Insufficient Bond Amount. The Committee may terminate this Agreement in its sole discretion if the Mayor or City Council does not approve the bond issue by October 1, 2012, pursuant to Section 2.1.1, or approves the issuance of bonds at that time in an amount insufficient to contribute \$14 million toward the construction of the parking structure.

3.4.2 Cost Overruns. The Committee may terminate this Agreement in its sole discretion if the anticipated cost of the Project exceeds the budget for the Project provided by the Committee to the City by more than 3% for any reason, including but not limited to the discovery of hazardous substances on the Project site, changes in the Project required by the City, or unexpectedly high bids by contractors for the Project work.

3.5 Force Majeure. In the event the performance of either party is delayed due to causes which are outside their control, and could not be avoided by the exercise of due care, which may include, but is not limited to, war, terrorist attack, act of God, government regulations, labor disputes, strikes, fires, floods, adverse weather or elements necessitating cessation of the work, inability to obtain materials, labor or equipment, or litigation or legal proceedings challenging one or more of the project approvals, then the time for performance shall be extended by an amount equivalent to the length of delay. Neither party shall receive compensation from the other party for a force majeure event.

ARTICLE 4 – MANDATORY CONTRACT CLAUSES

4.1 Nondiscrimination in Contracting. Pursuant to SDMC Section 22.3512, the Committee shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of contractors, vendors or suppliers. The Committee shall provide equal opportunity for contractors to participate in subcontracting opportunities. The Committee understands and agrees that violation of this clause shall be considered a material breach of the Agreement and may result in contract termination, debarment, or other sanctions.

4.1.1 Subcontracts. Pursuant to SDMC Section 22.3512, the Committee shall ensure that the language of Section 4.1 is incorporated into all its contracts with firms working on the Project.

4.1.2 Disclosure Requirements. Pursuant to SDMC Section 22.3514, upon the City's request, the Committee agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that

the Committee has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the Committee for each subcontract or supply contract. The Committee further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance. The Committee understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, and other sanctions.

4.2 Access for Persons with Disabilities. Pursuant to City Council Policy 100-04, the Committee shall comply with all portions of Title 24 and the ADA. The Committee shall ensure that language requiring compliance with City Council Policy 100-04 is incorporated into all its contracts with firms working on the Project. The Committee and its consultants, designers, contractors and construction managers will be individually responsible for administering their own ADA and Title 24 program. The Committee shall execute and submit to the City the Certification for Title 24/ADA Compliance, as shown in Exhibit E.

4.3 Drug Free Workplace. Pursuant to City Council Policy 100-17, the Committee shall certify that it will provide a drug-free workplace by executing and submitting to the City the Drug-Free Workplace Certification as shown in Exhibit F. The Committee shall ensure that language requiring compliance with City Council Policy 100-17 is incorporated into all its contracts with firms working on the Project. The Committee and its consultants, designers, contractors and construction managers will be individually responsible for administering their own drug-free workplace program.

4.4 San Diego Business Tax Certificate. The Committee, all consultants, designers, contractors, subcontractors, and construction managers not already having a City of San Diego Business Tax Certificate for the work contemplated shall secure the appropriate certificate from the City Treasurer, City Operations Building, Community Concourse, before performing any work on the Project.

4.5 Product Endorsement. Pursuant to Administrative Regulation 95.65, any advertisements referring to the City of San Diego as a user of a product or service will require prior written approval of the Mayor or his designee. The Committee shall ensure that language requiring compliance with Administrative Regulation 95.65 is incorporated into all its contracts with firms working on the Project.

ARTICLE 5 - INDEMNITY

5.1 General Indemnity. The Committee agrees to defend, indemnify, protect and hold harmless the City, its elected officials, officers and employees, from and against all third-party claims or judgments asserted, or third-party liability established for damages or injuries to any person or property arising directly or indirectly out of the construction of the Project, or the Committee's obligations under this Agreement, which are caused or claimed to be caused by the negligent acts or omissions or willful misconduct of the Committee, its officers, employees, consultants, designers, contractors or construction managers. The Committee's obligation to indemnify the City shall not include any liability to the extent caused by the negligence or willful misconduct

of the City, its elected officials, officers or employees. The Committee's obligation to defend shall not include claims or liability caused or claimed to be caused by the sole negligence or sole willful misconduct of the City, its elected officials, officers or employees. The City may elect to conduct its own defense, in its sole discretion, without invalidating this section. The Committee may satisfy the obligation in this Section through the acquisition of a reasonable and adequate insurance policy for that purpose, with the approval of the City which shall not be unreasonably withheld.

5.1.1 Litigation Challenging Project Approvals. The Committee's obligation to defend and indemnify the City shall not include any third-party claims or litigation challenging the propriety of the EIR, the Site Development Permit, plan amendments, this Agreement or other Project approvals.

5.1.2 Maintenance and Repair. The Committee's obligation to defend and indemnify the City shall not include any third-party claims or litigation arising from the City's failure to properly maintain or repair any phase of the Project after acceptance by the City.

5.1.3 City Costs. The Committee's obligation to indemnify the City shall not include the cost of any City employee time arising from a third-party claim, litigation or judgment.

5.2 Indemnity for Design Services. With respect to the design of the Project, except as otherwise provided by California Civil Code section 2782.8, the Committee shall indemnify and hold harmless the City, its elected officials, officers and employees, from all claims, demands or liability that arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of the Committee, its design professionals, officers or employees. The Committee's obligation to indemnify the City shall not include the cost of any City employee time arising from a third-party claim, litigation or judgment.

5.3 Survival. The indemnity provisions in this Article shall survive expiration and termination of this Agreement and continue so long as a viable claim exists.

ARTICLE 6 – GENERAL PROVISIONS

6.1 Compliance with Laws. The Committee shall comply with all applicable local, state and federal laws, statutes, ordinances, and regulations in the performance of its obligations under this Agreement. The Committee shall require all consultants, designers, contractors and construction managers it hires to work on the Project to similarly comply with all laws while working on the Project.

6.2 Contract Interpretation. This Agreement is intended to permit the parties to complete the Project according to the project schedule in Exhibit B. This Agreement, its exhibits, and the documents listed in Section 1.1 are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction industry standards. This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California without regard to the conflicts or choice of law provisions thereof.

6.3 Mandatory Mediation. If a dispute arises out of or relates to this Agreement that cannot be resolved through normal contract negotiations, the Committee and the City must first endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of JAMS or any other neutral organization agreed upon by the parties before having recourse in a court of law.

6.3.1 Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Agreement, if possible, and chosen from lists furnished by JAMS or any other agreed upon mediator.

6.3.2 Mediation Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All joint expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.

6.3.3 Conduct of Mediation. Mediation hearings will be conducted in an informal manner. Discovery shall not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code Sections 1115 - 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though the City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.

6.3.4 Mediation Results. Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

6.4 Time is of the Essence. The City and the Committee mutually agree that time is of the essence with respect to the dates and times set forth in this Agreement and the project schedule in Exhibit B.

6.5 Mutual Obligations. The City and the Committee commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under this Agreement.

6.6 Successors-In-Interest. This Agreement and all rights and obligations contained herein shall be in effect whether or not any or all parties to this Agreement have been succeeded by another entity, and all rights and obligations of the parties signatory to this Agreement shall be vested and binding on their successors in interest.

6.7 Third Party Beneficiaries. Nothing in this Agreement shall grant rights or benefits to anyone other than the City and the Committee, and any alleged third party beneficiaries are hereby expressly disclaimed. The parties understand and agree, however, that to the extent permitted by law, the City is an intended third party beneficiary of the Committee's agreements with its consultants, designers, contractors and construction managers performing work on the Project.

6.8 Severability. Should any provision of this Agreement be held invalid or illegal by a court or administrative agency of competent jurisdiction, such invalidity or illegality shall not invalidate the whole of this Agreement, but, rather, the Agreement shall be construed as if it did not contain the invalid or illegal provision, and the rights and obligations of the parties shall be construed and enforced accordingly, except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely frustrate either or both parties' essential objectives set forth in this Agreement.

6.9 Independent Contractor. The Committee is and shall be an independent contractor. Any provisions in this Agreement that may appear to give the City the right to direct the Committee as to the details of accomplishing the work or to exercise a measure of control over the work means that the Committee shall follow the wishes of the City as to the results of the work only.

6.10 Waivers. The failure of either party to enforce any of the provisions of this Agreement or to require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of such provisions unless the waiver is in writing. Prior waivers shall not preclude the right of either party to thereafter enforce each and every provision of this Agreement.

6.11 Limitation on Powers. Nothing in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

6.12 Conflict of Interest. The Committee shall establish and make known to its members, consultants, designers, contractors and construction managers, appropriate safeguards to prohibit employees from using their positions for a purpose that is, or gives the appearance of being, motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships. Committee members shall not accept gratuities or any other favors from potential consultants, designers, contractors or construction managers who may or are working on the Project.

6.13 Notices. All notices required to be given under this Agreement must be in writing and either served personally, sent by facsimile transmission, or mailed by express or certified mail with delivery confirmation. Notices shall be effective upon receipt. Notices shall be mailed to:

Plaza de Panama Committee
c/o KCM Group
1940 Garnet Avenue, Suite 300
San Diego, CA 92109
Attn: Gordon Kovtun

Public Works Director
City of San Diego
202 "C" Street, 9th Floor
San Diego, CA 92101

6.14 Assignment. The Committee shall not assign its rights or obligations under this Agreement without the City's prior written approval, which shall not be unreasonably withheld. Any attempted assignment in violation of this section shall be void and incapable of creating any contractual relationship between the City and a putative assignee.

6.15 Survival. Any obligation that accrues under this Agreement prior to its expiration or termination shall survive such expiration or termination.

6.16 Incorporation of Exhibits. All exhibits referenced in this Agreement and the documents referenced in Section 1.1 are hereby incorporated into and made a part of this Agreement by reference.

6.17 Integration Clause. The City and the Committee represent, warrant and agree that no oral promise or agreement not expressed herein has been made to them, that this Agreement contains the entire agreement between the parties, that this Agreement supersedes any and all prior oral agreements or understandings between the parties unless otherwise provided herein, and that in executing this Agreement, neither party is relying on any statement or representation made by the other party concerning the subject matter, basis or effect of this Agreement other than as set forth herein, and that each party is relying solely on its own judgment and knowledge. This Agreement may not be amended except by an instrument in writing signed by both parties.

6.18 Counterparts. This Agreement may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

[remainder of page intentionally blank]

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego pursuant to Resolution No. R-_____ authorizing such execution, and the Plaza de Panama Committee acting by and through its authorized officers.

PLAZA DE PANAMA COMMITTEE

THE CITY OF SAN DIEGO

By: _____

By: _____

Name: _____

Name: _____

Date: _____

Date: _____

The undersigned Kovtun Construction hereby agrees to be bound by this Agreement to the extent required by law to assure the City of San Diego that all construction work will be performed by a licensed contractor.

I HEREBY APPROVE the form and legality of the foregoing agreement this _____ day of _____, 2012.

JAN I. GOLDSMITH, City Attorney

KOVTUN CONSTRUCTION

By: _____
Deputy City Attorney

By: _____
Gordon Kovtun, President

Date: _____

EXHIBIT A

Project Description

The current parking lot located on the Plaza de Panama along with roadway paving at the West Prado and Plaza de California to be removed and the asphalt replaced by new paving material and perimeter landscaping. General vehicular traffic to be redirected south around the westerly side of the Museum of Man and the Plaza de California on roadways to be constructed. The existing fountain on the Plaza de Panama to remain but may be adjusted to integrate with the new design of the plaza or otherwise relocated within the Plaza de Panama. Complementary permanent improvements to be made to the Plaza de Panama, to the Plaza de California, to the Esplanade area south of the Plaza de Panama and El Prado west of the Plaza de Panama, which are anticipated to include water features (such as fountains or reflection pools), trees, benches, and additional pedestrian amenities and other features.

Roadway improvements, including a bridge/ramp, to allow vehicular traffic to bypass the Plaza de California, West El Prado, Plaza de Panama, and the Esplanade after entering the Park Central Mesa from the west across the Laurel Street/Cabrillo Bridge. The new bridge/ramp will direct vehicular traffic to the existing Alcazar parking lot, which will be reconfigured for passenger pick-up/drop-off purposes, disabled parking, service loading, and valet staging.

A new parking structure to be designed and constructed at the site of the current parking lot south of the Spreckels Organ Pavilion. The approximate 797 parking space, three level parking structure to be subterranean (Parking Structure) but naturally ventilated through exposure on the east and portions of the north and south elevations. The Parking Structure to feature an approximate 97,000 square foot landscaped roof, which will be usable as a park and may include playground equipment, restroom facilities, a Visitors Center, picnic tables and other amenities. The landscaped roof will integrate with pedestrian zones at the south along Presidents Way, west along the pedestrian/tramway adjacent to the international cottages, and at the north at the Spreckels Organ Pavilion.

Roadway improvements to be designed and constructed to allow traffic to continue through the Alcazar Garden parking lot, continuing west of the Esplanade, and around the west side of the Spreckels Organ Pavilion to the Parking Structure. Improvements oriented to pedestrians to also include a tramway to provide service between the Parking Structure and the Plaza de Panama, and other facilities in the general area of the Plaza de Panama.



Construction Management and Consulting Services

Exhibit B

Plaza de Panama

Summary Project Schedule

ID	Name	Start	Finish	2010				2011				2012				2013				2014							
				Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4				
1																											
2	PLAZA DE PANAMA PROJECT	Mon 6/21/10	Fri 10/3/14	PLAZA DE PANAMA PROJECT																							
3	CONCEPT / SCHEMATIC DESIGN	Mon 6/21/10	Tue 3/1/11	6/21																							
4	APPROVALS, PLAN AMENDMENTS, AND SITE DEVELOPMENT PERMIT	Thu 10/21/10	Tue 4/10/12	6/21																							
20	DESIGN DEVELOPMENT	Tue 3/1/11	Thu 5/31/12	10/21																							
21	ENVIRONMENTAL REVIEW PROCESS	Thu 2/24/11	Fri 5/4/12	3/1																							
33	CITY COUNCIL VOTE/PROJECT APPROVAL	Mon 7/9/12	Mon 7/9/12	2/24																							
34																											
35	CONSTRUCTION DOCUMENTS/PERMITS	Mon 4/9/12	Tue 5/28/13	7/9																							
36	Plan Set #1 - Grading, Shoring, Utilities	Mon 4/9/12	Fri 9/28/12	4/9																							
37	Plan Set #1A - Tunnel/Structure Wall H/H1	Sat 5/12/12	Mon 10/22/12	4/9																							
38	Plan Set #1B - Tram Facility	Thu 5/24/12	Mon 10/22/12	5/12																							
39	Plan Set #2 - Centennial Bridge	Mon 4/9/12	Thu 12/20/12	5/24																							
40	Plan Set #3 - Parking Structure	Mon 4/9/12	Thu 12/20/12	4/9																							
41	Plan Set #4 - Alcazar Lot, Plazas, Centennial Road	Mon 4/9/12	Tue 5/28/13	4/9																							
42	Plan Set #5 - Rooftop Park & Ancillary Structures	Mon 4/9/12	Tue 5/28/13	4/9																							
43																											
44	PROJECT CONSTRUCTION	Mon 10/1/12	Fri 10/3/14	10/1																							
45	Phase I - Utility Relocation & Road Construction	Mon 10/1/12	Fri 11/30/12	10/1																							
46	Phase II - Bypass Bridge, Parking Structure, & Rooftop Park	Sat 12/1/12	Fri 1/31/14	12/1																							
47	Phase III - Alcazar Lot & Utility Relocation	Mon 2/3/14	Fri 5/30/14	2/3																							
48	Phase IV - Plazas, Esplanade, & Promenade	Mon 6/2/14	Fri 10/3/14	6/2																							

Footnotes:

- (1) Construction start date based on anticipated design production, City review, & permit issuance and may be adjusted accordingly.
- (2) Phasing indicated based on prelim sequence, subject to change based on actual conditions or Park constraints.
- (3) Project Schedule does not anticipate litigation or other delays and will be reformatted accordingly.

EXHIBIT C

Insurance Requirements

C-1 Insurance Carriers. As a minimum requirement of acceptability, all insurance carriers shall be duly authorized by the California Insurance Commissioner to transact the business of insurance in the State of California. Except for the State Compensation Insurance Fund, insurance coverage must be from an insurance carrier licensed in the State of California and rated “A-” and “VI” or better by the A.M. Best Key Rating Guide. The required insurance policies and the certificate(s) of insurance shall contain the endorsements required below.

C-2 Workers' Compensation and Employer's Liability Insurance.

C-2.1 Workers' Compensation in compliance with the applicable state and federal laws.

C-2.2 Employer's Liability:

Bodily Injury by Accident	\$1,000,000 each accident
Bodily Injury by Disease	\$1,000,000 each employee
Bodily Injury by Disease	\$1,000,000 policy limit

C-2.3 Required Endorsements.

C-2.3.1 Cancellation. Except as provided for under California law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies.

C-2.3.2 Waiver of Subrogation. The policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the City, and its respective elected officials, officers, employees, agents, and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured.

C-3 Commercial General Liability Insurance. The policy or policies shall be written on ISO Occurrence form CG 00 01 07 98, or an equivalent form providing coverage at least as broad, which shall cover liability arising from premises and operations, XCU (explosion, underground, and collapse), independent contractors, products/completed operations, personal injury and advertising injury, and liability assumed under an insured’s contract (including the tort liability of another assumed in a business contract). There shall be no endorsement or modification of the CGL Insurance limiting the scope of coverage for either “insured vs. insured” claims or contractual liability. All policy coverage shall be on an occurrence basis and in amounts not less than the following limits of liability:

General Annual Aggregate Limit (Other than Products/Completed Operations)	\$2,000,000
Products/Completed Operations Aggregate Limit	\$2,000,000
Personal Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000

C-3.1 Required Endorsements.

C-3.1.1 Additional Insureds. The policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers, and employees, agents, and representatives with respect to liability arising out of: (a) Ongoing operations performed by you or on your behalf, (b) Your products, (c) Your work, including but not limited to your completed operations performed by you or on your behalf, and (d) premises owned, leased, controlled, or used by you.

C-3.1.2 Primary and Non-Contributory Coverage. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of the Committee's insurance and shall not contribute to it.

C-3.1.3 Cancellation. Except as provided for under California law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies.

C-3.1.4 Severability of Interest. The policy or policies must be endorsed to provide that the Committee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

C-4 Commercial Automobile Liability Insurance. Contractor shall provide at its expense a policy written on an ISO form CA 00 01 12 90, or a later version of this form or equivalent form, providing coverage at least as broad in the amount of \$1,000,000 combined single limit per accident, covering bodily injury and property damage for owned, non-owned and hired automobiles.

C-4.1 Required Endorsements:

C-4.1.1 Additional Insureds. The policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers,

employees, agents, and representatives with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Committee.

C-4.1.2 Cancellation. Except as provided for under California law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies.

C-4.1.3 Severability of Interest. The policy or policies must be endorsed to provide that the Committee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

C-5 Surplus Lines. A policy by a Surplus Lines insurer is presumptively invalid unless the insurer is on the List of Approved Surplus Line Insurers (LASLI List) maintained by the California Department of Insurance. The LASLI List may be found at:

<http://www.insurance.ca.gov/0100-consumers/0030-licensee-info/0031-surplus-lines/lasli.cfm>

All policies of insurance carried by non-admitted carriers shall be subject to all of the requirements for policies of insurance provided by admitted carriers described above.

EXHIBIT D

Stormwater Pollution Prevention Program Requirements

EXHIBIT E

Certification for Title 24/ADA Compliance

EXHIBIT F

Drug-Free Workplace Certification