

**CITY OF SANTA BARBARA  
CITY COUNCIL**

**Marty Blum**

*Mayor*

**Dale Francisco**

*Mayor Pro Tempore*

**Das Williams**

*Ordinance Committee Chair*

**Roger L. Horton**

*Finance Committee Chair*

**Iya G. Falcone**

**Grant House**

**Helene Schneider**



**James L. Armstrong**  
*City Administrator*

**Stephen P. Wiley**  
*City Attorney*

**City Hall**

*735 Anacapa Street*

*<http://www.SantaBarbaraCA.gov>*

**MARCH 10, 2009  
AGENDA**

**ORDER OF BUSINESS:** Regular meetings of the Finance Committee and the Ordinance Committee begin at 12:30 p.m. The regular City Council meeting begins at 2:00 p.m. in the Council Chamber at City Hall.

**REPORTS:** Copies of the reports relating to agenda items are available for review in the City Clerk's Office, at the Central Library, and <http://www.SantaBarbaraCA.gov>. In accordance with state law requirements, this agenda generally contains only a brief general description of each item of business to be transacted or discussed at the meeting. Should you wish more detailed information regarding any particular agenda item, you are encouraged to obtain a copy of the Council Agenda Report (a "CAR") for that item from either the Clerk's Office, the Reference Desk at the City's Main Library, or online at the City's website (<http://www.SantaBarbaraCA.gov>). Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office located at City Hall, 735 Anacapa Street, Santa Barbara, CA 93101, during normal business hours.

**PUBLIC COMMENT:** At the beginning of the 2:00 p.m. session of each regular City Council meeting, and at the beginning of each special City Council meeting, any member of the public may address the City Council concerning any item not on the Council's agenda. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that public comment is taken up by the City Council. Should City Council business continue into the evening session of a regular City Council meeting at 6:00 p.m., the City Council will allow any member of the public who did not address them during the 2:00 p.m. session to do so. The total amount of time for public comments will be 15 minutes, and no individual speaker may speak for more than 1 minute. The City Council, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is beyond their jurisdiction.

**REQUEST TO SPEAK:** A member of the public may address the Finance or Ordinance Committee or City Council regarding any scheduled agenda item. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that the item is taken up by the Finance or Ordinance Committee or City Council.

**CONSENT CALENDAR:** The Consent Calendar is comprised of items that will not usually require discussion by the City Council. A Consent Calendar item is open for discussion by the City Council upon request of a Councilmember, City staff, or member of the public. Items on the Consent Calendar may be approved by a single motion. Should you wish to comment on an item listed on the Consent Agenda, after turning in your "Request to Speak" form, you should come forward to speak at the time the Council considers the Consent Calendar.

**AMERICANS WITH DISABILITIES ACT:** In compliance with the Americans with Disabilities Act, if you need special assistance to gain access to, comment at, or participate in this meeting, please contact the City Administrator's Office at 564-5305 or inquire at the City Clerk's Office on the day of the meeting. If possible, notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements in most cases.

**TELEVISION COVERAGE:** Each regular City Council meeting is broadcast live in English and Spanish on City TV Channel 18 and rebroadcast in English on Wednesdays and Thursdays at 7:00 p.m. and Saturdays at 9:00 a.m., and in Spanish on Sundays at 4:00 p.m. Each televised Council meeting is closed captioned for the hearing impaired. Check the City TV program guide at [www.citytv18.com](http://www.citytv18.com) for rebroadcasts of Finance and Ordinance Committee meetings, and for any changes to the replay schedule.

## **ORDER OF BUSINESS**

12:00 p.m. - Special Ordinance Committee Meeting, Council Chamber  
2:00 p.m. - City Council Meeting

### **SPECIAL ORDINANCE COMMITTEE MEETING - 12:00 P.M. IN THE COUNCIL CHAMBER (120.03)**

#### **Subject: Alternative Building Heights Charter Amendment**

Recommendation: That the Ordinance Committee review and make a recommendation to Council on draft charter language amending City Charter Section 1506 with regard to changing the City Charter's 60-foot building height allowance for certain commercial zones.

(Continued from March 3, 2009)

# REGULAR CITY COUNCIL MEETING – 2:00 P.M.

## CALL TO ORDER

## PLEDGE OF ALLEGIANCE

## ROLL CALL

## CEREMONIAL ITEMS

1. **Subject: Proclamation Declaring March 14-15, 2009, As Lions White Cane Days (120.04)**

## CHANGES TO THE AGENDA

## PUBLIC COMMENT

## CONSENT CALENDAR

2. **Subject: Minutes**

Recommendation: That Council waive the reading and approve the minutes of the regular meeting of February 10, 2009, the special meeting of February 12, 2009, and the regular meeting of February 17, 2009 (cancelled due to lack of a quorum).

3. **Subject: Records Destruction For The Community Development Department (160.06)**

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records held by the Community Development Department in the Records Section of the Building and Safety Division.

4. **Subject: Contract For Design For The Santa Barbara Airport Water Distribution System Upgrade To Improve System Redundancy In Southern Area (560.04)**

Recommendation: That Council authorize the Public Works Director to execute a contract with Penfield & Smith Engineers, Incorporated (Penfield & Smith), in the amount of \$30,440 for design services for the Santa Barbara Airport Water Distribution System Upgrade project, and authorize the Public Works Director to approve expenditures of up to \$3,040 for extra services of Penfield & Smith that may result from necessary changes in the scope of work.

## **CONSENT CALENDAR (CONT'D)**

### NOTICES

5. The City Clerk has on Thursday, March 5, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.
6. Received letters of resignation from Community Development & Human Services Committee Member Michael Getto and Creeks Advisory Committee Member Michael O'Brien; the vacancies will be part of the next City Advisory Group recruitment.

**This concludes the Consent Calendar.**

### **REPORT FROM THE ORDINANCE COMMITTEE**

### **CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS**

#### ADMINISTRATIVE SERVICES DEPARTMENT

7. **Subject: Recommendation To Conduct Vote By Mail General Municipal Elections (110.03)**

Recommendation: That Council authorize the City Clerk to conduct the November 2009 General Municipal Election as a Vote By Mail Election.

#### FINANCE DEPARTMENT

8. **Subject: Airport Terminal Project Financing Update (560.04)**

Recommendation: That Council:

- A. Receive an update on the Airport Terminal Project financing; and
- B. Authorize staff to proceed with the sale of project bonds.

#### PUBLIC WORKS DEPARTMENT

9. **Subject: Contract For Construction Of Santa Barbara Airport Temporary Facilities And Site Preparation Project (560.04)**

Recommendation: That Council:

- A. Hold a hearing to consider any possible bid protest with respect to award of the Santa Barbara Airport Temporary Facilities and Site Preparation Project contract to the apparent lowest responsible bidder;

(Cont'd)

## CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS (CONT'D)

### PUBLIC WORKS DEPARTMENT (CONT'D)

#### 9. (Cont'd)

- B. Reject all bid protests submitted by bidders to the award of the Santa Barbara Airport Temporary Facilities and Site Preparation Project contract to the apparent lowest responsible bidder;
- C. Award and authorize the Public Works Director to execute a contract with Lash Construction (Lash) in their low bid amount of \$3,475,850 for construction of the Santa Barbara Airport Temporary Facilities and Site Preparation Project, Bid No. 3,555, and authorize the Public Works Director to approve expenditures up to \$350,000 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment; and
- D. Authorize the Public Works Director to execute a contract with Howard, Needles, Tammen & Bergendoff, Inc. (HNTB), in the amount of \$648,361 for construction support services, and approve expenditures of up to \$32,500 for extra services of HNTB that may result from necessary changes in the scope of work.

#### 10. **Subject: Contract For Construction Of Santa Barbara Airport Airline Terminal Improvement Project (560.04)**

Recommendation: That Council:

- A. Hold a hearing to consider any possible bid protest with respect to award of the Santa Barbara Airport Airline Terminal Improvement Project contract to the apparent lowest responsible bidder;
- B. Reject all bid protests submitted by bidders to the award of the Airline Terminal Improvement Project contract to the apparent lowest responsible bidder;
- C. Award and authorize the Public Works Director to execute a contract with EMMA Corporation (EMMA) in its low bid amount of \$32,858,000 for the base bid, plus bid alternates 1 and 2, for construction of the Santa Barbara Airport Airline Terminal Improvement Project (Project), Bid No. 3,556, and authorize the Public Works Director to approve expenditures up to \$3,440,000 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment;
- D. Authorize the Public Works Director to execute a contract with Howard, Needles, Tammen & Bergendoff California Architects, P. C. (HNTB), in the amount of \$4,181,135 for construction support services, and approve expenditures of up to \$209,055 for extra services of HNTB that may result from necessary changes in the scope of work; and

(Cont'd)

## **CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS (CONT'D)**

### **PUBLIC WORKS DEPARTMENT (CONT'D)**

#### **10. (Cont'd)**

- E. Authorize the Public Works Director to approve a contract with Padre Associates (Padre) in the amount of \$48,200, and approve expenditures of up to \$4,800 for extra services of Padre that may result from necessary changes in the scope of work.

## **COUNCIL AND STAFF COMMUNICATIONS**

## **COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS**

## **ADJOURNMENT**

CITY OF SANTA BARBARA

**SPECIAL ORDINANCE COMMITTEE**

MEETING AGENDA

DATE: March 10, 2009  
TIME: 12:00 p.m.  
PLACE: Council Chambers

Das Williams, Chair  
Dale Francisco  
Grant House

Office of the City  
Administrator

Office of the City  
Attorney

Nina Johnson  
Assistant to the City Administrator

Stephen P. Wiley  
City Attorney

**ITEM FOR CONSIDERATION**

**Subject: Alternative Building Heights Charter Amendment**

Recommendation: That the Ordinance Committee review and make a recommendation to Council on draft charter language amending City Charter Section 1506 with regard to changing the City Charter's 60-foot building height allowance for certain commercial zones.

(Continued from March 3, 2009)



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE AGENDA REPORT

**AGENDA DATE:** March 3, 2009

**TO:** Ordinance Committee

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Alternative Building Heights Charter Amendment

### **RECOMMENDATION:**

That the Ordinance Committee review and make a recommendation to Council on draft charter language amending City Charter Section 1506 with regard to changing the City Charter's 60-foot building height allowance for certain commercial zones.

### **EXECUTIVE SUMMARY:**

The prospect of placing an alternative building height charter amendment on the November ballot was most recently discussed at the joint meeting of the City Council and Planning Commission on February 5, 2009. After hearing input from the Architectural Board of Review, Historic Landmarks Commission, Planning Commission, and members of the public, it was decided to continue the discussion at the Ordinance Committee.

The purpose of meeting with the Ordinance Committee is to:

- Review the approach of a possible supplemental charter measure that voters could approve, should the Save El Pueblo Viejo (SEPV) measure pass;
- Discuss the provisions that could be included in the measure and companion ordinance to be adopted by the City Council;
- Consider amendment to the building height definition; and
- Make a recommendation to Council.

Previous discussions with the Ordinance Committee included a new 5' variable setback for buildings in the C-2 and C-M zones. Based on recent direction from design boards Planning Commission and Council, the new setback standard will be processed separately as an independent ordinance amendment and not as part of the subject building heights charter amendment.

## **DISCUSSION:**

### **I. Charter Section 1506 Language**

Below is the charter language on building heights as it exists today and as recommended by the citizen initiative known as Save El Pueblo Viejo (SEPV). With Ordinance Committee direction, staff could continue work on an alternative Charter Amendment as well. However, a suggestion was made by Commissioner Lodge at the Joint City Council/Planning Commission meeting to consider having a supplement to the SEPV language that an exception to the 40/45 foot height be allowed for Community Priority Projects, affordable housing or rental projects. Although there was not much discussion of this concept because it came up late in the meeting, staff believes it has merit and should be further considered as described below.

#### **A. Existing Building Heights Charter Language (Charter Section 1506)**

Charter of the City of Santa Barbara - Section 1506 – Building Heights. Limitations

*It is hereby declared the policy of the City that high buildings are inimical to the basic residential and historical character of the City. Building heights are limited to 30 feet in areas zoned for single-family and two-family residences; are limited to 45 feet in areas zoned for residences for three (3) or more families, for hotel, motel and office use; are limited to 60 feet in areas zoned for industrial, manufacturing and other commercial uses; and 30 feet for all other zones. The Council may, by ordinance, set limits of heights less than these maximums. The Council may, by ordinance, set up reasonable methods of measuring the heights set forth in this section. (Approved by election held November 7, 1972)*

#### **B. Save El Pueblo Viejo Charter Language Amendment**

Amend Section 1506 as follows: “It is hereby declared the policy of the City that high buildings are inimical to the basic residential and historical character of the City. Therefore, building heights are limited to 30 feet in areas zoned for single-family and two-family residences; and building heights in areas zoned for residences for three (3) or more families and all other building heights shall be limited to 45 feet except in the El Pueblo Viejo Landmark District where building heights shall be limited to 40 feet. The Council may, by ordinance, set limits of heights less than these maximums. The Council may, by ordinance, set up reasonable methods of measuring the heights set forth in this section.”

#### **C. Supplemental Charter Measure Should SEPV Height Measure Pass**

Should the SEPV Charter Measure pass, staff believes that there is support by some Planning Commission and Council Members and the public allowing Community Priority Projects to exceed the 40 and 45 foot height under circumstances discussed below. At this time, city staff would like the Ordinance Committee to discuss recommendation of the drafted supplemental charter measure that could follow the SEPV Charter Amendment on the ballot.

The City Council's Proposed Charter Section 1506 "Supplemental Amendment" could read as follows:

The City Council may, by ordinance, establish a special use permit process to supplement the November 2009 voter approved amendment to this Charter section 1506 in order to allow a building of up to sixty (60) feet (or height TDB) in height within those areas of the City zoned for commercial, retail, and industrial uses so long as the building is intended to provide for a Community Priority project (as defined by the City Council ordinance) or to provide for a building project containing residential units with at least thirty percent (30%), fifty percent (50%) or %TBD of the units permanently restricted for ownership or occupancy by families qualifying as Middle Income households or lesser incomes under the City's established Affordable Housing Policies and Procedures or provides permanent rental housing that could not be converted to condominiums. This Charter Amendment shall only take effect if an amendment to City Charter Section 1506 further limiting the heights of buildings within the City is approved by the voters of the City at the General Municipal Election of November 3, 2009.

## II. Community Priority Projects

A decision needs to be made as to whether the existing definition is supported for the exceptions to height or whether it needs to be more limited. There is also a need to consider new criteria for projects proposing to exceed the established height limit because they provide a community benefit.

### A. Existing Definition of Community Priority Projects

Community Priority Projects are defined in Charter Section 1508 and the Municipal Code as those which are found by the City Council as necessary to meet present or projected needs directly related to public health, safety or general welfare.

A "general welfare project" is also defined in the Municipal Code as a project which has a broad public benefit (for example museums, childcare facilities, or community centers) and which is not principally operated for profit.

Staff supports using this definition of Community Priority Projects. It has been used for close to twenty years under the provisions of the commercial growth control Measure E Charter Amendment. With the public scrutiny and approval required by the City Council, staff feels it would be an appropriate definition to use for building height as well.

### B. Additional Provisions to Define a Community Priority Project

A Community Priority Project for purposes of exceeding building height could also include the following components:

1. Percentage Affordable to Middle Income or Less

Discussions on this provision have included applying to projects of 10 or more units; applying a 30% affordability criteria; and considering allowing projects that meet the upper middle income ranges to be included in Community Priority Projects. Planning Commissioners have also expressed the importance of not exacerbating the “jobs/housing imbalance” created by the market-priced units.

The City, in PlanSB, has initiated an economic study to address issues of job creation as a result of market housing development and effects on affordable housing ranges. While there is support for projects where 30% of the units are affordable to middle-income or lower-income households (households earning 160% or less of the Area Median Income), some believe that is not enough to help in the jobs housing imbalance concern or for purposes of exceeding a new building height limit. And, while others may support 50% or more of the units being affordable because this type of project may be more of a community benefit in order to exceed the building height, it may not be feasible from an economic standpoint. At this point, it is more of a policy decision of what specific percentage of affordability is put in the charter. Voters would be clear on what they are voting for if a percentage is included in the charter. However, the percentage cannot be easily amended as economic conditions change.

In addition, staff recommends the affordability apply to any project requesting an exception to building height (not only projects of 10 or more). The concern has been that we want to discourage the smaller projects to have very large penthouse type units with only a couple affordable units.

2. Dedicated Rental Units

There is no consensus on whether projects that provide rental housing should be affordable to be considered as an exception to allow a building height in excess of 40/45 feet. Some Planning Commissioners felt that to be a community benefit, the project must have affordable rental units. In terms of specifying an amount of the project floor area that must be rental (e.g., in a mixed-use project), the only idea discussed was a possible standard that 50% of the building contain rental units. We are requesting direction from the Ordinance Committee on this issue for inclusion in the companion ordinance.

C. Current Process for Community Priority Projects

Currently, Council Resolution 99-036 establishes the administrative procedures for processing a Community Priority Project. With the application, the applicant must include a Needs Assessment providing staff and the Council with information necessary to make the finding that the proposed project meets a “present or projected need directly related to public health, safety or general welfare.” The City Council then makes a

preliminary and non-binding identification of community priority status for the project which allows the project to continue through the planning process. Whether the project requires Planning Commission approval or not, the Planning Commission is the body required to make a recommendation to the Council for a Final Designation as a Community Priority Project. Staff expects that a similar Council Resolution specific to allowing projects to exceed the established building height will be required to implement this potential charter amendment.

D. Draft Provisions of Future Ordinance for Projects Exceeding 40/45 Feet in Height

The following are implementation details to be included in an ordinance that would carry out the supplemental charter amendment.

1. The City Council could grant a special use permit (SUP) for a building containing a “Community Priority” Affordable Housing, and/or rental housing.
2. The companion City Council ordinance would define “Community Priority” for the purposes of Charter Section 1506 as follows:  
“A Community Priority project is one which has a broad public benefit (for example: museums, child care facilities, or community centers) and which is not operated for private profit.” [*i.e., the existing definition at SBMC Section 28.87.300(B) (6)*]
3. The companion ordinance would not create any new definitions of “Affordable Housing” and would only reference the existing City Affordable Housing Policies and Procedures.
4. The companion ordinance would establish a process similar to the existing Measure E “Community Priority” designation process, *i.e.*, it would involve a preliminary and final designation by the City Council.
5. The companion ordinance would provide for a similar process for designating rental projects or an “affordable” project which may exceed the 40-foot height limitation – that is, the Council would issue a determination that a project was affordable and that it qualified for an exemption to the Charter Section 1506 height limitation of 40 or 45 feet.
6. A concept design review from either ABR or HLC (depending on the location) would be required to provide the City Council with a recommendation on the preliminary determination.
7. The companion ordinance would provide that an exemption to the Charter height limitation could not be obtained for specially zoned areas – Upper State Street zoned SD-2, and for the Coastal Zone,

SD-3, where a 45-foot height limit is the current zoned maximum height, i.e., the same zoned height restrictions as those which currently exist will be expressly continued in the Council's companion ordinance.

8. A draft of the companion ordinance would accompany the voter materials and will have been adopted by the Council prior to the election but will expressly state that it will not take effect unless and until the voters approve the SEPV Charter Section 1506 amendments. As an ordinance adopted by Council, it could be subsequently amended only with a super majority (five affirmative votes) of the City Council.

E. Additional Findings/Criteria for Community Priority Projects

The Ordinance Committee had requested that the Planning Commission suggest possible criteria that the Council could use in deeming the project a Community Priority Project for purpose of exception to the building height (this would be in addition to II. A. and II. B above and any findings required of the project application):

1. Substantial Open Space

That the project provides substantial open space on the site. The ABR and HLC agreed that any project to be considered for an exception to building height should also provide more open space on the site. The boards felt that the location and amount should remain flexible depending on the use and configuration of the site (this is separate and distinct from the variable 5-foot front yard setback that will be processed as a separate ordinance amendment for all projects in the C-2 and C-M zones.)

2. Quality Architecture and Design

ABR members felt that strong architectural design is as important a community benefit as the affordable and rental housing being considered. All of these projects with non-residential, multiple units, or mixed use would require either ABR or HLC review, so architectural/design review of the architecture as well as landscaping will require design approval. A finding of exemplary architectural quality could be built into the concept review by ABR/HLC for those buildings greater than the established height limit. Staff requests Ordinance Committee input on this.

**III. Building Heights Definition (SBMC Section 28.04.120)**

The current definition of building heights is as follows:

*The maximum vertical height of a building or structure at all points measured from natural or finished grade, whichever is lower. Architectural elements that do not add floor area to a building, such as chimneys, vents, antennae, and towers,*

*are not considered a part of the height of a building, but all portions of the roof are included.*

The definition includes all roof areas up to the ridge line, and there are exemptions for architectural elements such as towers. The ground level from which the height is measured is currently the lower of either the existing grade or new finished grade. This definition was discussed extensively in the Neighborhood Preservation Ordinance Update and it works very well for residential developments, both infill and in the hillside areas. However, it does not work well for commercial and mixed use properties in the commercial areas where there are sloping sights, and flood control standards as well as preference for sloped roofs.

Staff recommends changing the definition to recognize grade changes due to the topography of the downtown and flood control standards and to allow 3-story buildings with sloped roofs within 40 feet. The measuring point could reference the Base Flood Elevation (BFE) for projects located within a Flood Plain. However, this is an ordinance change that is not required prior to Council action on a Charter Amendment. With timing concerns for placing a Charter Amendment on the ballot, staff would recommend that modifications to the building height definition occur after Council action on a Charter provision.

#### **IV. Ordinance Committee Input and Recommendations:**

The following are key issues and questions that City staff is looking for direction from the Ordinance Committee before returning to the City Council on March 24, 2009.

- A. Should an increase to the proposed 40/45 SEPV recommended height limit be allowed for Community Priority projects as discussed above?
- B. Does the Committee support the approach of a supplemental charter amendment to the SEPV Charter Amendment instead of an alternative charter amendment?
- C. If so, does the Committee agree with staff recommendation to use the existing definition of Community Priority Projects for those that exceed the height limit?
- D. Does the Committee agree that there should be a 30% percent threshold for affordability in order to be considered a community priority project and that it be applied to all projects that exceed the base height?
- E. Should there be a minimum building area requirement occupied by rental units in order to exceed the base height? Should rental units have affordability restrictions or can they be market rental to exceed the height?
- F. Does the Committee recommend that open space and quality architecture findings be made as part of the Community Priority process?

- G. Does the Committee agree that the definition of building height be amended for the commercial zones to allow for sloped sites, flood control standards and sloped roofs?

**NEXT STEPS:**

1. Council Action to Initiate Environmental Review – Once the draft language of the Charter Amendment and Ordinance have been reviewed by the Ordinance Committee, the matter would be brought before the full Council for initiation. This needs to occur by March 24, 2009 in order to allow adequate time for the items outlined below and meet the deadline for placing a measure on the November 2009 ballot.
2. Environmental Review - Staff would complete environmental review under CEQA and work with the City Attorney's office on the draft companion ordinance.
3. Planning Commission Review - The Planning Commission would have public comment on the environmental document and make a recommendation to Council on the key components of the charter amendment and draft companion ordinance.
4. Council Hearing - Adoption of Environmental Review (assuming the project is a Negative or Mitigated Negative Declaration), approval of final language for charter amendment, and introduction of companion ordinance.
5. Council – Adoption of ordinance that would implement charter amendment provisions should the charter amendment pass.
6. Final charter language due to City Clerk by June 16, 2009
7. Election, November 10, 2009

**PREPARED BY:** Beatriz E. Gularte, Project Planner  
Bettie Weiss, City Planner

**SUBMITTED BY:** Paul Casey, Community Development Director

**APPROVED BY:** City Administrator's Office



City of  
Santa Barbara

**PROCLAMATION**

**Lions White Cane Days  
March 14-15, 2009**

*WHEREAS, Lions International, with over 1,400,000 members in the free world, has been dedicated to serving sight for over sixty years; and*

*WHEREAS, Lions International at its 1925 Convention was inspired to include servicing the sight needy as an import part of it community concerns. It was the appeal of the lovely triple-handicapped Helen Keller and her dedicated teacher, Anne Sullivan, who declared that Miss Keller's inability to see was her greatest handicap; and*

*WHEREAS, the Santa Barbara Host Lions Club has been outstanding in its community in helping the needy with sight problems through the use of its White Cane donations; and*

*WHEREAS, the Santa Barbara Host Lions Club has invited its neighbors to share in saving vision by donating to its White Cane Days event; and*

*WHEREAS, many Lion-assisted research teams have learned more about sight, devised new treatments and surgeries to correct subnormal vision. More people are living better because of the new techniques and new instruments that are available to the sight impaired.*

**NOW, THEREFORE, I, MARTY BLUM**, by virtue of the authority vested in me as Mayor of the City of Santa Barbara, do hereby proclaim March 14-15, 2009, as **LIONS WHITE CANE DAYS**, and urge all citizens to join in sharing the Lions concern for the best sight possible for our neighbors in need, by giving generously to Lions White Cane Day. Every penny will give "The Gift of Sight."

**IN WITNESS THEREOF**, I have hereunto set my hand and caused the Official Seal of the City of Santa Barbara, California, to be affixed this 10<sup>th</sup> day of March, 2009.

  
*Marty Blum*  
**MARTY BLUM, MAYOR**



# CITY OF SANTA BARBARA CITY COUNCIL MINUTES

## REGULAR MEETING February 10, 2009 COUNCIL CHAMBER, 735 ANACAPA STREET

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### CALL TO ORDER

Mayor Marty Blum called the joint meeting of the Council and the Redevelopment Agency to order at 2:02 p.m. (The Finance Committee met at 12:00 p.m. The Ordinance Committee, which ordinarily meets at 12:30 p.m., did not meet on this date.)

### PLEDGE OF ALLEGIANCE

Mayor Blum.

### ROLL CALL

Councilmembers present: Iya G. Falcone, Dale Francisco, Roger L. Horton, Grant House, Helene Schneider, Das Williams, Mayor Blum.

Councilmembers absent: None.

Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley, City Clerk Services Manager Rodriguez.

### PUBLIC COMMENT

Speakers: Jack Wilson; Ruth Wilson; Roger Heroux; Nancy Tunnell; Dr. Gary Linker, New Beginnings Counseling Center.

### ITEMS REMOVED FROM CONSENT CALENDAR

3. Subject: Adoption Of Ordinance For The 2008-2010 General Unit Memorandum Of Understanding (440.02)

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Adopting the Memorandum of Understanding Between the City of Santa Barbara and the Santa Barbara City Employees' Association (General Unit).

3. (Cont'd)

The title of the ordinance was read.

Motion:

Councilmembers Schneider/Williams to approve the recommendation;  
Ordinance No. 5477; Agreement No. 22,993.

Vote:

Majority roll call vote (Noes: Councilmember Francisco).

Councilmember Falcone stated she would abstain from voting on the following item due to a conflict of interest related to her membership with the organization in which the contract is benefitting.

4. Subject: Introduction Of Ordinance For Ten-Year License Agreement With The Santa Barbara Youth Sailing Foundation (330.04)

Recommendation: That Council approve a license agreement with the Santa Barbara Youth Sailing Foundation, and introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Approving a Ten-Year License Agreement With the Santa Barbara Youth Sailing Foundation, Effective March 26, 2009, for a 2,500 Square-Foot Water Space in Marina 1, at an Initial Rent of \$595 per Month.

Documents:

- February 10, 2009, report from the Waterfront Director.
- Proposed ordinance.

The title of the ordinance was read.

Motion:

Councilmembers Williams/Schneider to approve the recommendation.

Vote:

Unanimous roll call vote (Abstentions: Councilmember Falcone).

12. Subject: Proposed Change To Parking Violation Penalties And Related Fees (550.01)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Amending Resolution No. 08-060 Establishing Certain City Fees, Including Water and Wastewater Rates, and Rescinding Resolution Nos. 07-052, 07-085 and 08-013, Adjusting Parking Violation Penalties and Related Fees Effective March 1, 2009.

(Cont'd)

12. (Cont'd)

Documents:

- February 10, 2009, report from the Deputy Chief of Police.
- Proposed Resolution.

The title of the resolution was read.

Speakers:

Staff: City Administrator James Armstrong, Deputy Chief of Police Frank Mannix.

Motion:

Councilmembers Schneider/Francisco to approve the recommendation, excluding section 10.12.150(b) of the proposed resolution.

This motion was withdrawn.

**CONSENT CALENDAR (Item Nos. 1, 2, 5 - 12 and 14 - 18).**

The titles of the ordinances and resolutions related to the Consent Calendar items were read.

Motion:

Council/Agency Members Schneider/House to approve the Consent Calendar as recommended.

Vote:

Unanimous roll call vote.

CITY COUNCIL

1. Subject: Minutes

Recommendation: That Council waive the reading and approve the minutes of the regular meeting of January 20, 2009 (cancelled due to lack of a quorum), and the regular meeting of January 27, 2009.

Action: Approved the recommendation.

2. Subject: Termination Of The Proclamation For A Local Emergency (Tea Fire) (520.02)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Terminating a Local Emergency Due to the Tea Fire.

(Cont'd)

2. (Cont'd)

Action: Approved the recommendation; Resolution No. 09-006 (February 10, 2009, report from the Fire Chief; proposed resolution).

5. Subject: Introduction Of Ordinance To Approve Property Transfer For Highway 101 Operational Improvements Project (670.07)

Recommendation: That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Approving and Authorizing the City Administrator to Execute the Property Transfer Agreement with the State of California Department of Transportation, and Subsequently, Subject to Review and Approval by the City Attorney, to Execute Any Deeds to Provide for the Transfer of Certain Properties Owned in Fee by the City of Santa Barbara Required for the State Highway Route 101 Milpas Street to Hot Springs Road Operational Improvements Project, and Accepting the Ownership in Fee of Certain Non-Freeway Properties to be Relinquished by the State of California Department of Transportation, Underlying and Adjacent to the Roundabout at Milpas Street, Now Existing Adjacent to State Highway.

Action: Approved the recommendation (February 10, 2009, report from the Public Works Director; proposed ordinance).

6. Subject: Introduction Of Ordinance For Airport Zoning Map Revision - 1600 Cecil Cook Place (640.09)

Recommendation: That Council:

- A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Title 29 of the Santa Barbara Municipal Code to Rezone 9.04 Acres of Airport Approach and Operations Zone (A-A-O) to Aviation Facilities Zone (A-F) in the Coastal Zone at the Santa Barbara Municipal Airport; and
- B. Recommend approval of a Local Coastal Program Amendment to the California Coastal Commission to change the corresponding LCP zoning pursuant to State Public Resources Code §30514.

Action: Approved the recommendations (February 10, 2009, report from the Airport Director; proposed ordinance).

7. Subject: Emergency Purchase Orders Issued For The Tea Fire (520.02)

Recommendation: That Council retroactively approve the issuance of emergency purchase orders to Tierra Contracting, Inc., in the amount of \$79,970 to construct debris racks, and to Acacia Erosion Control, Inc., in the amount of \$73,000 for slope stabilization and erosion control.

Action: Approved the recommendation (February 10, 2009, report from the Finance Director).

8. Subject: Preliminary Economic Development Designation For 352 Hitchcock Way Project (640.09)

Recommendation: That Council make a preliminary finding that the project proposed for 352 Hitchcock Way meets the definition of an Economic Development Project, and grant the proposed project a Preliminary Economic Development Designation for 7,925 square feet of non-residential floor area.

Action: Approved the recommendation (February 10, 2009, report from the Community Development Director).

9. Subject: Acceptance Of Southern California Edison Energy Leaders Pilot Program Revenues (380.01)

Recommendation: That Council accept and appropriate the Southern California Edison (SCE) Energy Leaders Pilot Program incentive revenue for \$66,699.34 in the General Fund Capital Outlay, Downtown Parking and Water Operating funds, and appropriate \$36,805 for additional General Fund sustainability projects.

Action: Approved the recommendation (February 10, 2009, report from the Public Works Director).

10. Subject: Appropriation Of Airport Improvement Program Grant Fund (560.04)

Recommendation: That Council increase appropriations and estimated revenue by \$1,647,802 in the Airport's Grant Fund for the final phase of mitigation for the Runway Safety Area project, to be funded from Federal Aviation Administration Airport Improvement Program (AIP) Grant No. 03-06-0235-37, including the City's 5% match portion (\$233,390) to be funded from Airport reserves above policy.

Action: Approved the recommendation (February 10, 2009, report from the Airport Director).

11. Subject: State Workforce Housing Reward Program Projects (570.07)

Recommendation: That Council redirect the remaining balance of State Workforce Housing Reward Funds from the Franklin Center project (\$98,362) to other Park and Recreation facility projects.

Action: Approved the recommendation (February 10, 2009, report from the Parks and Recreation Director).

12. Subject: Proposed Change To Parking Violation Penalties And Related Fees (550.01)

Recommendation: That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Amending Resolution No. 08-060 Establishing Certain City Fees, Including Water and Wastewater Rates, and Rescinding Resolution Nos. 07-052, 07-085 and 08-013, Adjusting Parking Violation Penalties and Related Fees Effective March 1, 2009.

Action: Approved the recommendation; Resolution No. 09-007 (February 10, 2009, report from the Deputy Chief of Police; proposed resolution).

### REDEVELOPMENT AGENCY

Agenda Item No. 13 appears in the Redevelopment Agency minutes.

14. Subject: Notice To City Council And Redevelopment Agency Board Regarding Real Estate Interest In Redevelopment Project Area From Agency Board Member (620.01)

Recommendation: That the Council and the Agency Board receive the notice of City Councilmember and Redevelopment Agency Board Member Grant House of real estate interest in the Redevelopment Project Area in compliance with California Redevelopment Law Section 33130.

Action: Approved the recommendation (February 10, 2009, report from the Community Development Director/Agency Deputy Director; February 4, 2009, letter from Trey Pinner, Manager of Professional Investment Planning).

15. Subject: Educational Revenue Augmentation Fund Payment (150.02)

Recommendation:

- A. That Council authorize the Finance Director to notify the Santa Barbara County Auditor that the Redevelopment Agency's Educational Revenue Augmentation Fund payment will be made by the Redevelopment Agency from Redevelopment Agency tax increment revenues; and
- B. That the Redevelopment Agency Board authorize the appropriation and expenditure of \$1,403,758 from the Redevelopment Agency's General Fund to pay the Agency's obligation to the state-imposed Educational Revenue Augmentation Fund.

Action: Approved the recommendations (February 10, 2009, report from the Community Development/Agency Deputy Director).

## NOTICES

16. The City Clerk has on Thursday, February 5, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.
17. Cancellation of the regular City Council and Redevelopment Agency meeting of February 17, 2009, due to lack of a quorum.
18. Received a letter of resignation from Creeks Advisory Committee Member Daniel Hochman; the vacancy will be part of the next City Advisory Group recruitment.

This concluded the Consent Calendar.

## **REPORT FROM THE FINANCE COMMITTEE**

Finance Committee Chair Roger Horton reported that the Committee met to hear staff's presentation on carbon neutrality options for the City. The Committee is in favor of having City goals in this regard, but has requested additional financial information. Once the Committee receives the additional information, the Committee will review the options and return to the full Council in the near future.

## **REDEVELOPMENT AGENCY REPORTS**

19. Subject: West Beach Public Art Program Professional Services Contract (610.04)

Recommendation: That Council and the Agency Board:

- A. Authorize the General Services Manager to execute a purchase order not to exceed \$123,100 with Richard Irvine and Raphel Perea de la Cabada for design, fabrication and construction consulting of public art for three of the four plazas of the West Beach Public Art Program as part of the Redevelopment Agency-funded West Beach Pedestrian Improvement Project; and authorize the General Services Manager to approve expenditures up to \$12,300 for extra services that may result from necessary changes to the scope of work;
- B. Authorize the General Services Manager to execute a purchase order not to exceed \$25,600 with Lori Ann David for design, fabrication and construction consulting of public art for one of the four plazas of the West Beach Public Art Program as part of the Redevelopment Agency-funded West Beach Pedestrian Improvement Project; and authorize the General Services Manager to approve expenditures up to \$2,500 for extra services that may result from necessary changes to the scope of work; and

(Cont'd)

19. (Cont'd)

- C. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara and the City of Santa Barbara Redevelopment Agency Approving and Adopting the Findings Required by Health and Safety Code Section 33445 for Funding of Capital Improvements for the West Beach Public Art Program.

Documents:

- February 10, 2009, joint report from the Public Works Director and Community Development Director/Agency Deputy Director.
- Proposed Resolution.
- February 10, 2009, PowerPoint presentation prepared and made by staff.

The title of the resolution was read.

Speakers:

Staff: Redevelopment Supervisor Brian Bosse, Redevelopment Specialist Jeannette Candau.

Motion:

Council/Agency Members House/Falcone to approve the recommendations; City Council Resolution No. 09-008; Redevelopment Agency Resolution No. 1014.

Vote:

Unanimous roll call vote.

## **CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS**

### COMMUNITY DEVELOPMENT DEPARTMENT

20. Subject: Introduction Of Ordinance For 535 E. Montecito Street, Los Portales Specific Plan (SP-10) (660.04)

Recommendation: That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Adopting a Specific Plan for the Los Portales Specific Plan Area ("SP-10 Zone") for Property Located at 535 E. Montecito Street, Assessor's Parcel Number 031-351-010.

Documents:

- February 10, 2009, report from the Community Development Director.
- Proposed ordinance.
- February 10, 2009, PowerPoint presentation prepared and made by staff.

The title of the ordinance was read.

(Cont'd)

20. (Cont'd)

Speakers:

- Staff: Associate Planner Kathleen Kennedy, Community Development Director Paul Casey, Assistant City Attorney Scott Vincent, City Attorney Stephen Wiley.
- Planning Commission: Commissioner Addison Thompson.
- Member of the Public: President John Campanella, Bermant Development Company.

Motion:

Councilmembers Williams/Horton to approve the recommendation, with an added condition that staff develop a list of items that would not be permitted in the open-yard use area unless compatible with the surrounding uses, including a maintenance agreement related to the upkeep of the exterior grounds.

Amendment Motion:

Councilmembers Williams/Horton to approve the recommendation with the added conditions requiring plans for:

- 1) Open yard uses that are compatible with the surrounding properties in a manner acceptable to the property owner and the Community Development Director; and
- 2) Maintaining the appearance of the property's open yard uses, effective 60 days of the adoption of the ordinance.

Vote on Amendment Motion:

Majority roll call vote (Noes: Councilmember Francisco, Mayor Blum).

**RECESS**

3:50 p.m. - 4:02 p.m.

PUBLIC WORKS DEPARTMENT

21. Subject: Outdoor Lighting And Streetlight Design Guidelines (530.04)

Recommendation: That Council hear a report from the Streetlight Design Guidelines Advisory Group and adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Establishing and Approving the City's Outdoor Lighting and Streetlight Design Guidelines Dated as of February 10, 2009.

Documents:

- February 10, 2009, report from the Public Works Director.
- Proposed Resolution.
- February 10, 2009, PowerPoint presentation prepared and made by staff.

(Cont'd)

21. (Cont'd)

The title of the resolution was read.

Speakers:

- Staff: Principal Civil Engineer John Ewasiuk, Facilities Manager Jim Dewey.
- Member of the Public: Steve Hausz.

Motion:

Councilmembers House/Horton to approve the recommendation;  
Resolution No. 09-009.

Vote:

Unanimous roll call vote.

## **RECESS**

4:56 p.m. - 6:04 p.m.

Mayor Blum presiding.

Councilmembers present: Falcone, Francisco, Horton, House, Schneider, Williams, Mayor Blum.

Councilmembers absent: None.

Staff present: City Administrator Armstrong, City Attorney Wiley, City Clerk Services Manager Rodriguez.

## **PUBLIC COMMENT**

No one wished to speak.

## **CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS**

### PUBLIC WORKS DEPARTMENT

22. Subject: State And De La Vina Intersection Reconfiguration Project (530.04)

Recommendation: That Council:

- A. Direct Staff to continue with the Transportation and Circulation Committee's (TCC) recommended concept for the State and De La Vina Intersection Reconfiguration Project;
- B. Approve the final design elements for the Project as presented to the Architectural Board of Review (ABR) on May 8, 2008; and
- C. Authorize an increase in MNS Engineering's contract in the amount of \$20,000 to complete the Project design.

(Cont'd)

22. (Cont'd)

Documents:

- February 10, 2009, report from the Public Works Director.
- February 10, 2009, PowerPoint presentation prepared and made by staff.
- February 9, 2009, email communication from Patricia Hiles.
- June 24, 2008, letter from Jim Westby and Roger Manasse.
- February 10, 2009, letter from Jim Youngson.
- February 10, 2009, letter from James O. Kahan.
- February 10, 2009, letter from Michael Self.
- February 10, 2009, email communication from Lloyd and Margaret Albright.

Speakers:

- Staff: Public Works Director Christine Andersen, Supervising Transportation Engineer Drusilla Van Hengel, Traffic Engineer Peter Doctors.
- Transportation and Circulation Committee: Members Keith Coffman-Grey, David Pritchett, Mark Bradley.
- Members of the Public: Michael Self, Santa Barbara Safe Streets; Bonnie Donovan; Steve Maas, Metropolitan Transit District; Lanny Ebenstein; Paul Suavina; David T. Jennings; Ralph Fertig, Santa Barbara Bicycle Coalition; Roger Manasse; Joyce Untch; Scott Wenz; Thomas Matthias; David VanHoy; Josiah Jenkins; Larry Bickford; Karen VanHoy; Wilson Hubbell; Shirley Wood Force, Santa Barbara Safe Streets; Lee Moldaver; Leslie Mancebo; Eli Horowitz; Michael C. Warnken; Harold F. Hattier; Linda Foster; Kellam de Forest; Pierre Delong; Harry Kazali, Quality Inn; Michael Kwan; Mickey Flacks; Sharon Westby; Frank Hotchkiss, Santa Barbara Safe Streets; Susan Horne, Safe Routes to School; Courtney Dietz, Santa Barbara Walks; Dennis Rickard; James Kahan, Grove Lane; Chris Orr; Jim Westby; Alice Post; Marc Phillips; Kent Epperson; Michael Chiacos; Eva Inbar, Coalition for Sustainable Transportation (COAST); Lori La Riva; Reed Wilson; Edward France; Alex Pujo.

**RECESS**

8:15 p.m. - 8:23 p.m.

Motion:

Mayor Blum/Councilmember House to approve staff's recommendations, including the addition of a bicycle lane and right-turn arrow.

This motion was withdrawn.

(Cont'd)

22. (Cont'd)

Motion:

Councilmember Williams/Mayor Blum to send the project back to the Transportation and Circulation Committee with direction to better balance the intersection for all users, including the following safety improvements:

- 1) Eliminating the right-hand turn lane;
  - 2) Adding a right-hand turn arrow;
  - 3) Reviewing the bike lane reconfiguration;
  - 4) Minimizing any loss of parking; and
- Approve Recommendation C.

This motion was withdrawn.

Motion:

Councilmembers House/Williams to table the item and direct staff to return to Council with some alternatives.

Vote:

Unanimous voice vote.

Motion:

Councilmembers Schneider/Horton to approve Recommendation C.

Vote:

Unanimous voice vote.

## **ADJOURNMENT**

Mayor Blum adjourned the meeting at 10:10 p.m.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA  
CITY CLERK'S OFFICE

\_\_\_\_\_  
MARTY BLUM  
MAYOR

ATTEST:

\_\_\_\_\_  
CYNTHIA M. RODRIGUEZ, CMC  
CITY CLERK SERVICES MANAGER



# CITY OF SANTA BARBARA CITY COUNCIL MINUTES

**SPECIAL MEETING**  
**February 12, 2009**

**DAVID GEBHARD PUBLIC MEETING ROOM, 630 GARDEN STREET**

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## **CALL TO ORDER**

Mayor Marty Blum called the joint meeting of the Council and the Planning Commission to order at 9:32 a.m.

## **ROLL CALL**

Councilmembers present: Iya G. Falcone (9:38 a.m.), Dale Francisco, Roger L. Horton, Grant House, Helene Schneider, Das Williams, Mayor Blum.

Councilmembers absent: None.

Planning Commissioners present: Bruce Bartlett, Charmaine Jacobs, John C. Jostes, Sheila Lodge, Addison Thompson, Harwood A. White, Jr., Chair Stella Larson.

Planning Commissioners absent: None.

Staff present: City Administrator James L. Armstrong, City Attorney Stephen P. Wiley, Deputy City Clerk Brenda Alcazar.

## **PUBLIC COMMENT**

No one wished to speak.

## **NOTICES**

The City Clerk has on Monday, February 9, 2009, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.

## **WORK SESSIONS**

### **Subject: Planning Division Work Program Activities (650.01)**

Recommendation: That Council hold a joint work session with the Planning Commission to receive status reports and discuss major work program activities in the Planning Division, including the Plan Santa Barbara Phase III Work Program, the Alternative Building Height Charter Amendment, and Highway 101 Operational Improvements.

#### Documents:

- February 12, 2009, report from the Community Development Director.
- February 20, 2009, Draft Plan Santa Barbara Process Timeline.
- February 12, 2009, written comments submitted by Water Commissioner Russell Ruiz.

#### Speakers:

- Staff: Principal Planner John Ledbetter, Principal Transportation Planner Rob Dayton, City Planner Bettie Weiss, City Attorney Stephen Wiley.
- Architectural Board of Review: Member Christopher Manson-Hing.
- Historic Landmarks Commission: Commissioner Don Sharpe.
- Water Commission: Commissioner Russell Ruiz.
- Members of the Public: Dr. Edo McGowan; Mickey Flacks, Santa Barbara 4 All; April Palencia; Lisa Plowman, Santa Barbara 4 All; Detty Peikert, Santa Barbara 4 All; Lawrence Chamberlain, American Institute of Architecture Students; Stephen Yates, Director of American Planning Association of Santa Barbara County; Suzanne Elledge; Jorge Machin, American Institute of Architects, Santa Barbara Chapter; Debbie Cox Bultan, Coastal Housing Coalition; Scott Hopkins, Santa Barbara 4 All; Brian Cearnal; Douglas Scott.

#### Discussion:

Staff presented a status report on Plan Santa Barbara Phase III Work Program. Staff also made a presentation on an alternative building height charter amendment. Questions from the Councilmembers and Planning Commissioners were answered by staff. Councilmembers and Planning Commissioners provided feedback on both reports. There was a general consensus that staff should move forward with an alternative building height charter amendment. A draft amendment is tentatively scheduled to be presented to the Ordinance Committee on March 3, 2009. Due to time constraints, staff did not provide a status report on Highway 101 operational improvements.

**ADJOURNMENT**

Mayor Blum adjourned the meeting at 12:17 p.m.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA  
CITY CLERK'S OFFICE

\_\_\_\_\_  
MARTY BLUM  
MAYOR

ATTEST: \_\_\_\_\_  
BRENDA ALCAZAR, CMC  
DEPUTY CITY CLERK



**CITY OF SANTA BARBARA  
CITY COUNCIL MINUTES**

**REGULAR MEETING  
FEBRUARY 17, 2009  
COUNCIL CHAMBER, 735 ANACAPA STREET**

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The regular meeting of the City Council, scheduled for 2:00 p.m. on February 17, 2009, was cancelled by the Council on November 18, 2008, due to lack of a quorum.

The next regular meeting of the City Council is scheduled for February 24, 2009, at 2:00 p.m. in the Council Chamber.

SANTA BARBARA CITY COUNCIL

SANTA BARBARA  
CITY CLERK'S OFFICE

\_\_\_\_\_  
MARTY BLUM  
MAYOR

ATTEST: \_\_\_\_\_  
BRENDA ALCAZAR, CMC  
DEPUTY CITY CLERK



Agenda Item No. \_\_\_\_\_

File Code No. 160.06

# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** March 10, 2009  
**TO:** Mayor and Councilmembers  
**FROM:** Building and Safety Division, Community Development Department  
**SUBJECT:** Records Destruction For The Community Development Department

### **RECOMMENDATION:**

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Relating to the Destruction of Records held by the Community Development Department in the Records Section of the Building and Safety Division.

### **DISCUSSION:**

The City Council adopted Resolution No. 07-066 on July 24, 2007, approving the City of Santa Barbara Records Management Policies and Procedures Manual. The Manual contains the records retention and disposition schedules for all City departments. The schedules are a comprehensive listing of records created or maintained by the City, the length of time each record should be retained, and the legal retention authority. If no legal retention authority is cited, the retention period is based on standard records management practice.

Pursuant to the Manual, the Community Development Director submitted a request for records destruction to the City Clerk Services Manager to obtain written consent from the City Attorney. The City Clerk Services Manager agreed that the list of records proposed for destruction conformed to the retention and disposition schedules. The City Attorney has consented in writing to the destruction of the proposed records.

The Community Development Director requests the City Council to approve the destruction of the Community Development Department records in the Records Section of the Building and Safety Division listed on Exhibit A of the resolution without retaining a copy.

### **SUSTAINABILITY IMPACT:**

Under the City's Sustainable Santa Barbara Program, one of the City's goals is to increase recycling efforts and divert waste from landfills. The Citywide Records Management Program outlines that records approved for destruction be recycled, reducing paper waste.

Council Agenda Report  
Records Destruction For The Community Development Department  
March 10, 2009  
Page 2

**PREPARED BY:** Brenda Nielsen, Administrative Clerical Supervisor

**SUBMITTED BY:** Paul Casey, Community Development Director

**APPROVED BY:** City Administrator's Office

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA RELATING TO THE DESTRUCTION OF RECORDS HELD BY THE COMMUNITY DEVELOPMENT DEPARTMENT IN THE RECORDS SECTION OF THE BUILDING AND SAFETY DIVISION

WHEREAS, the City Council adopted Resolution No. 07-066 on July 24, 2007, approving the City of Santa Barbara Records Management Policies and Procedures Manual;

WHEREAS, the City of Santa Barbara Records Management Policies and Procedures Manual contains the records retention and disposition schedules for all City departments. The records retention and disposition schedules are a comprehensive listing of records created or maintained by the City, the length of time each record should be retained, and the legal retention authority. If no legal retention authority is cited, the retention period is based on standard records management practice;

WHEREAS, Government Code section 34090 provides that, with the approval of the City Council and the written consent of the City Attorney, the head of a City department may destroy certain city records, documents, instruments, books or papers under the Department Head's charge, without making a copy, if the records are no longer needed;

WHEREAS, the Community Development Director submitted a request for the destruction of records held by the Community Development Department to the City Clerk Services Manager to obtain written consent from the City Attorney. A list of the records, documents, instruments, books or papers proposed for destruction is attached hereto as Exhibit A and shall hereafter be referred to collectively as the "Records";

WHEREAS, the Records do not include any records affecting title to real property or liens upon real property, court records, records required to be kept by statute, records less than two years old, video or audio recordings that are evidence in any claim or pending litigation, or the minutes, ordinances or resolutions of the City Council or any City board or commission;

WHEREAS, the City Clerk Services Manager agrees that the proposed destruction conforms to the City's retention and disposition schedules;

WHEREAS, the City Attorney consents to the destruction of the Records; and

WHEREAS, the City Council of the City of Santa Barbara finds and determines that the Records are no longer required and may be destroyed.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA that the Community Development Director, or his designated representative, is authorized and directed to destroy the Records without retaining a copy.

COMMUNITY DEVELOPMENT DEPARTMENT

BUILDING & SAFETY

Records Series

Date(s)

Cashier Journal Summary Reports

April 2003 thru June 2006

Administrative Subject/Correspondence Files

1994 through 2006

Monthly Report of Building Statistics

1993-1994



Agenda Item No. \_\_\_\_\_

File Code No. 560.04

# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** March 10, 2009

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Contract For Design For The Santa Barbara Airport Water Distribution System Upgrade To Improve System Redundancy In Southern Area

### RECOMMENDATION:

That Council authorize the Public Works Director to execute a contract with Penfield & Smith Engineers, Incorporated (Penfield & Smith), in the amount of \$30,440 for design services for the Santa Barbara Airport Water Distribution System Upgrade project, and authorize the Public Works Director to approve expenditures of up to \$3,040 for extra services of Penfield & Smith that may result from necessary changes in the scope of work.

### DISCUSSION:

#### BACKGROUND

On January 29, 2008, City Council approved Preliminary Design Contract No. 22,654 with Penfield & Smith in the amount of \$55,760. Penfield & Smith has completed the preliminary design and it has been reviewed and approved by the City's Development Application Review Team, as well as by the Planning Commission.

#### PROJECT DESCRIPTION

Water distribution systems typically involve a series of pipelines that are networked together to provide a "looped" system. This type of network system allows for any particular point within the network to be fed from multiple locations. This redundancy is advantageous since fire hydrant flows are improved, and service reliability is increased.

The southern area of the Airport's water distribution system is served by a single 7,000 foot long waterline. The single feed configuration limits service reliability and does not optimize fire hydrant flows. This project would install a secondary waterline feed to the southern area of the Airport's water distribution system, and improve fire flows and system reliability. The new water line will be installed inside the airfield operations area fence on the east side of the airfield, running from near the Signature Aviation fixed

base operator, to an area near the new terminal. It will provide a redundant feed to the terminal area. The total project cost is estimated to be \$1,500,882.

**DESIGN PHASE CONSULTANT ENGINEERING SERVICES**

Staff recommends that Council authorize the Public Works Director to execute a contract with Penfield & Smith in the amount of \$30,400 for final design for upgrades to the Airport's water distribution system. Penfield & Smith is one of the participants in the City's Three-year Prequalified Engineering Services Program and is experienced in this type of work.

**FUNDING**

The following summarizes all estimated total project costs:

**ESTIMATED TOTAL PROJECT COST**

Design (by Contract)	\$86,200
Other Design Costs - City staff (if contract), Environmental (Assessments, etc.)	\$20,000
<b>Subtotal</b>	<b>\$106,200</b>
Estimated Construction Contract w/Change Order Allowance	\$1,244,622
Estimated Construction Management/Inspection/Testing	\$150,000
<b>Subtotal</b>	<b>\$1,394,622</b>
<b>TOTAL PROJECT COST</b>	<b>\$1,500,822</b>

Funding for this project includes approximately \$950,000 that is already appropriated in the Airport Capital Fund and the balance (\$550,000) will be funded from the Airline Terminal Bond Issue. There are sufficient funds in the Airport Capital Fund to cover this contract.

**PREPARED BY:** Owen Thomas, Principal Civil Engineer/LR/sk

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** March 10, 2009

**TO:** Mayor and Councilmembers

**FROM:** City Clerk's Office, Administrative Services Department

**SUBJECT:** Recommendation To Conduct Vote By Mail General Municipal Elections

### **RECOMMENDATION:**

That Council authorize the City Clerk to conduct the November 2009 General Municipal Election as a Vote By Mail Election.

### **BACKGROUND:**

On January 29, 2007, at a Council work session, staff presented a work plan describing the duties and responsibilities for conducting traditional poll and vote by mail elections. The City Council also received a presentation from Burbank City Clerk, Margarita Campos, regarding the vote by mail election process. Staff estimated the cost of a City-conducted election to be approximately \$300,000, substantially lower than a County-managed election estimated by the County to cost the City between \$550,000 and \$650,000.

The City's estimated \$300,000 cost included contracting for services and equipment (poll booths, ballot counters, printing and absentee voter scanning equipment) to conduct a traditional poll election, including retention of an election consultant during the election.

On April 24, 2007, staff returned to Council with requested information related to a vote by mail election and a proposed charter amendment to change the election year. The data revealed that a vote by mail election generally did not result in a negative impact on voter participation; in fact, in every recent instance, voter turnout increased.

Council responded by directing staff to conduct the November 2007 election as a traditional poll election for three Council seats and a Charter Amendment proposing to change the City's regular General Election from odd to even years. Additionally, the Council requested staff to return for further direction on the possibility of conducting future elections as vote-by-mail elections should the Charter amendment for even year elections fail.

**DISCUSSION:**

To conduct the November 6, 2007, election, the City contracted with Martin & Chapman Company, for equipment and election related services and an elections consultant, Donna M. Grindey, to assist with the day-to-day functions of the election process. Staff also worked closely with County Elections to determine precinct consolidations and polling locations to mirror the County's system and thereby reduce any potential voter confusion.

The City hired and trained more than 200 poll workers who served at the polls on Election Day. For 5 days, more than 25 City staff members and City Clerks from other jurisdictions served on the absentee voter board. On election night, 66 additional staff members served on various boards in the Central Counting Center where City TV provided live election coverage.

Overall, the entire election process went smoothly with the final precinct reporting completed at approximately 9:40 p.m. The City's final election costs totaled \$280,000. Below is specific voting data related to the November 6, 2007, General Municipal Election:

Registered Voters	44,165	
Ballots Cast	16,364	37.05%
Poll Ballots Cast	5,474	33.5 %
Mail Ballots Cast	10,890	66.5%

On November 20, 2007, the City Council received and certified the final canvass of the election results. The election results showed 66.5% of the City's electorate voting by mail. The charter amendment to change municipal elections from odd to even years was not approved by the City voters. Consequently, staff plans to continue to conduct the City's general municipal elections in November of odd years. In the unlikely event that the State or another local jurisdiction holds a special election in November of odd years, staff plans to participate in a consolidated County administered election in order to take advantage of cost-sharing opportunities. An example of this process occurred in November 2005, when the Governor called a special statewide election and the City was able to participate in a consolidated election with the County at a cost of \$92,000.

Attachment 1 is a graph, showing the percentage of City voters casting their votes by mail for the period of 1983 through 2007. The data shows that the number of voters participating by mail has steadily increased. In 2003, legislation was enacted giving voters the opportunity to permanently vote by mail. Prior to this legislation, voters were required to submit an application requesting a vote by mail ballot due to absence from the area. Since the change in legislation the data shows the number of voters participating by mail has steadily increased.

Per the Council's direction on April 24, 2007, below, is a summary of the two options available, a traditional poll election or vote by mail election, to conduct General Municipal Elections.

### Traditional Poll Election

For the most part, a traditional poll election would be conducted very much like the City's 2007 election. Staff proposes to use the same precincts and polling locations designated by County Elections, to reduce any voter confusion. The County's consolidation of precincts could result in fewer poll locations in 2009. The City's plan includes hiring and training more than 200 poll workers to serve at the polls on Election Day. As with the 2007 election, staff proposes to contract with Martin & Chapman Company for services and equipment, and an elections consultant to assist with election day-to-day duties.

Staff also plans on the assistance of 25 City employees to serve on the vote by mail board the week preceding the election. On election morning, 14 City building inspectors would visit each polling location to ensure compliance. On election night, 52 additional staff members would serve on various boards in the Central Counting Center. City TV live election coverage is under consideration. As in the 2007 election, staff will request the assistance of the Sheriff's Department explorers' program to assist in directing election inspectors arriving at City Hall. Staff estimates the cost to conduct a traditional poll election to be approximately \$300,000.

Attachment #2 is a summary of staff's work plan and budget for conducting a traditional poll and vote by mail election. The right column of Attachment #2 summarizes staff's plan for a traditional poll election based on staff's experience in conducting the 2007 election.

### Vote By Mail Election

The City Charter allows vote by mail City elections. City Charter Section 1306, Elections to be Conducted by Mail Ballot, states: "The City Council may, by resolution, authorize the conduct of an election by mail. The procedure to be followed will be in accordance with provisions of the Elections Code of the State of California."

The vote by mail option includes establishing five designated polling centers. Proposed polling center locations include:

City Hall	735 Anacapa St.
Bethany Church	566 N. Hope Ave.
Pilgrim Terrace Homes	649 Pilgrim Terrace Dr.
Holy Cross Church	1740 Cliff Dr.
Franklin Community Center	1134 E. Montecito St.

The five recommended polling center sites are spread throughout the City, have been prior voting locations and meet the criteria to be polling locations.

Voters will be able to vote at City Hall, during regular business hours, beginning Monday, October 5, 2009, through Monday, November 2, 2009. Additionally, voters will be able to vote at City Hall on Election Day, Tuesday, November 3, 2009 from 7:00 a.m. to 8:00 p.m.

The other four polling centers will have one inspector and three clerks to manage the centers like traditional poll locations. All 5 centers, including City Hall, will be open on the Saturday preceding election day, October 31, 2009, from 10:00 a.m. to 2:00 p.m. and on election day, Tuesday, November 3, 2009, from 7:00 a.m. to 8:00 p.m. The City's vote by mail plan includes pre-paid postage for returned ballots.

Similar to a poll election, staff plans to contract with Martin & Chapman Company for election services and equipment, and with an elections consultant to assist with the day-to-day election duties.

Staff plans on the assistance of 35 City employees to serve on the vote by mail board the week preceding the election. On election morning, 4 City building inspectors will visit each polling location to ensure compliance. On election night, 52 additional staff members would serve on various boards in the Central Counting Center. City TV live election coverage is under consideration. Staff would also request the assistance from the members of the Sheriff's Department Explorers' program to direct election inspectors arriving at City Hall.

The cost of a vote by mail election is estimated at \$250,000.

With Council's direction to proceed with a vote by mail process, staff will return to Council in spring of 2009 for adoption of a resolution outlining the vote by mail election process.

With either option, staff will return to Council in late June 2009 requesting Council to adopt the necessary resolutions to schedule the City's general election:

- Calling for the election;
- Adopting regulations pertaining to candidates' statements;
- Directing the City Attorney to prepare an impartial analysis of any ballot measures or Charter Amendments; and
- Setting priorities for filing a written argument regarding ballot measures or Charter Amendments.

#### **ADVANTAGES OF A VOTE BY MAIL ELECTION**

- A projected cost savings of approximately \$50,000 compared to a traditional poll election

- Includes five designated polling centers which allow individuals to vote at a poll if so desired
- Offers more time to vote
  - Voters will be able to vote at City Hall, during regular business hours, beginning Monday, October 5, 2009, through Monday, November 2, 2009.
  - All 5 centers, including City Hall, will be open on the Saturday preceding Election Day, October 31, 2009, from 10:00 a.m. to 2:00 p.m. and on Election Day, Tuesday, November 3, 2009, from 7:00 a.m. to 8:00 p.m.
- The City's vote by mail plan includes pre-paid postage for returned ballots
- Reduces poll worker recruitment problems
- Allows for an effective processing of ballots as they come in and potentially reduces the number of ballots that are received and processed on Election Day
- The City's voting data from the period of 1983 through 2007 shows that the number of voters participating by mail has steadily increased

#### **BUDGET/FINANCIAL INFORMATION:**

The cost of a vote by mail election is estimated at \$250,000. The cost of a traditional poll election is estimated at \$300,000. The Administrative Services Department Fiscal Year 2010 budget request includes \$300,000 from the General Fund for the 2009 General Municipal Election.

#### **SUSTAINABILITY:**

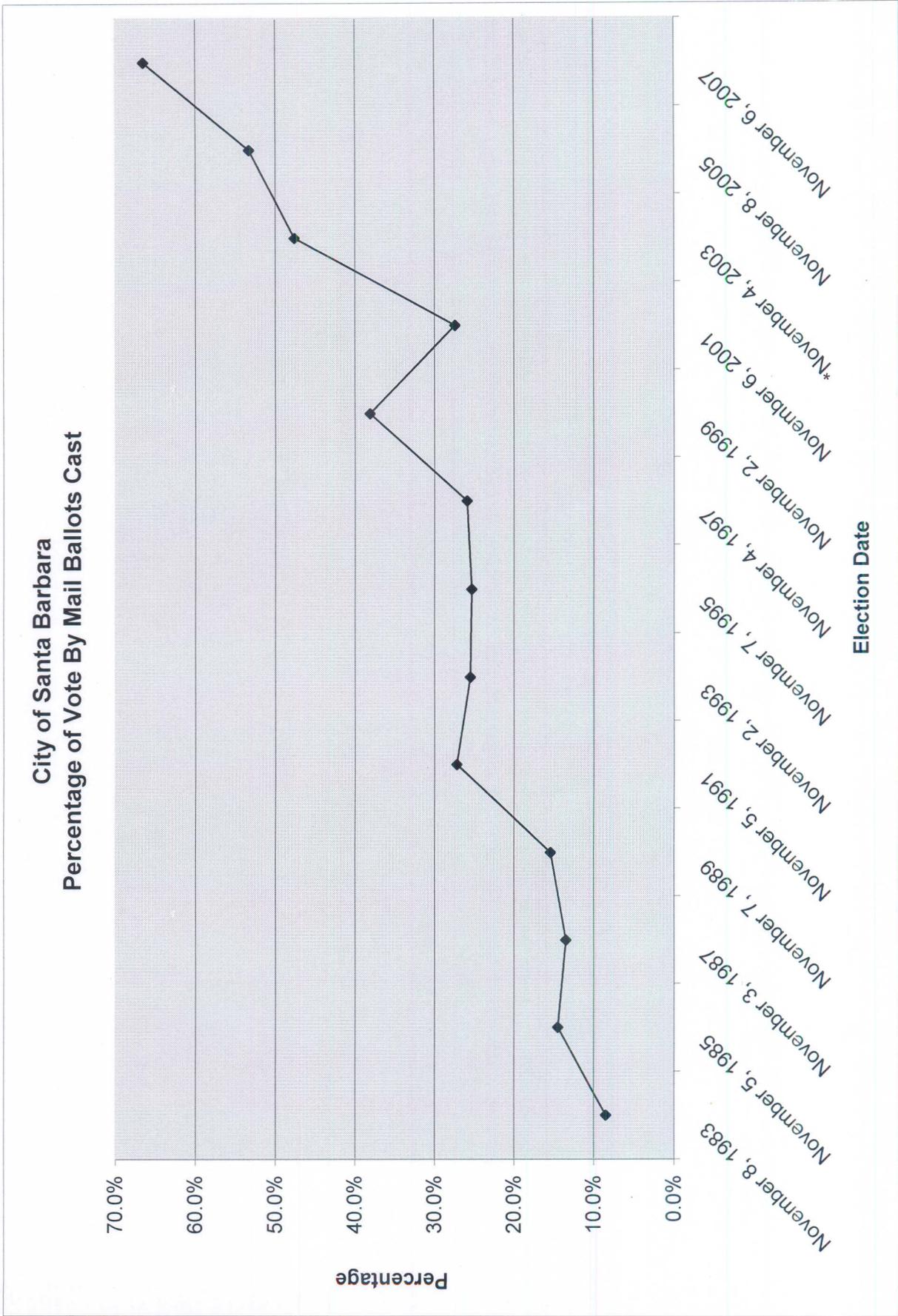
It is anticipated that a vote by mail election will reduce the number of potential vehicle trips made by voters and poll workers who would normally drive to the polls. This supports the City's sustainability goals to protect the environment.

**ATTACHMENTS:** Attachment 1 – City of Santa Barbara Elections, Vote by Mail Graph  
Attachment 2 – November 3, 2009, Stand-Alone Election Options

**PREPARED BY:** Cynthia M. Rodriguez, City Clerk Services Manager

**SUBMITTED BY:** Marcelo A. López, Administrative Services Director

**APPROVED BY:** City Administrator's Office



\*State legislation changed to allow for permanent absentee voting.

**November 3, 2009  
City of Santa Barbara  
Stand-Alone Election Options**

Vote By Mail Election:	Traditional Poll Election:
Registered Voters: 48,531 Vote By Mail Voters: 24,387 (Registration as of 11/11/08)	Registered Voters: 48,531 Vote By Mail Voters: 24,387 (Registration as of 11/11/08)
Polling Centers: 5  Center Voting: Saturday, October 31, 2009, 10:00 a.m. – 2:00 p.m. Tuesday, November 3, 2009, 7:00 a.m. – 8:00 p.m.  Vote by mail voting period: 10/5/09 – 11/3/09	Polling Locations: 33 Mail Ballot Precincts: 5  Poll Voting: Tuesday, November 3, 2009, 7:00 a.m. – 8:00 p.m.  Vote by mail voting period: 10/5/09 – 11/3/09
Poll Workers: 50 (20 bilingual) Inspectors: 10 Clerks: 40	Poll Workers: 201 (66 bilingual) • Inspectors: 35 • Clerks: 166
City Clerk's Office Staff: 9 • Permanent employees: 4 • Consultant: 1 • Hourly employees: 4	City Clerk's Office Staff: 9 • Permanent employees: 4 • Consultant: 1 • Hourly employees: 4
Vote By Mail Board: 35 10/28/09 – 11/3/09 (5 full days)  Election Day additional staff: 56 • Building Inspectors: 4 • Central Counting Center: 30 • Police, City TV, computer and PIO support: 22 Additional support: 4 Sheriff's explorers directing inspectors arriving with ballots	Vote By Mail Board: 25 10/28/09 – 11/3/09 (3 half and 2 full days)  Election Day additional staff: 66 • Building Inspectors: 14 • Central Counting Center: 30 • Police, City TV, computer and PIO support: 22 Additional support: 8 Sheriff's Department explorers directing inspectors arriving with ballots
Budget: • Election Consults/Equip/Supp: \$164,350 • Polling Center Workers' Salaries: 8,000 • Contingency: 20,000 • Postage: 36,000 • Hourly Employees: 12,500 • Publications, Translation, Rentals & Misc.: 9,150	Budget: • Election Consults/Equip/Supp.: \$ 208,350 • Poll Workers' Salaries: 23,250 • Contingency: 20,000 • Postage: 19,000 • Hourly Employees: 12,500 • Publications, Translation, Rentals & Misc.: 16,900
<b>Total Election Cost: \$ 250,000</b>	<b>Total Election Cost: \$300,000</b>



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** March 10, 2009

**TO:** Mayor and Councilmembers

**FROM:** Administration Division, Finance Department

**SUBJECT:** Airport Terminal Project Financing Update

**RECOMMENDATION:** That Council:

- A. Receive an update on the Airport Terminal Project financing; and
- B. Authorize staff to proceed with the sale of the project bonds.

### **DISCUSSION:**

#### Background

On December 23, 2008, the Council authorized the issuance of up to \$65 million of Airport bonds to finance the Airport Terminal project. At that time, staff noted that the issuance of the Airport bonds was significantly complicated or even precluded by the unfavorable and extremely volatile credit markets. Estimates at the time were that the interest rate on the Airport bonds would have been as high as 8%, assuming they could have been sold at all. Even though Council authorized the bond issuance, staff made it clear that issuance would have to wait for more favorable credit market conditions. It was hoped that this would occur sometime in the first quarter of 2009.

The December 23<sup>rd</sup> staff report noted that there was another potential factor – adjustments to the federal Internal Revenue Code application of “Alternative Minimum Tax” - which could favorably affect the Airport bond sale. Generally, the interest earned by bondholders on the municipal bonds is exempt from state and federal income taxes. However, while municipal airport bonds are technically tax-exempt bonds, because they are used to construct a facility that serves for-profit commercial activities (the airlines), the interest earned on airport bonds has for many years been subject to the federal Alternative Minimum Tax (“AMT bonds”). As a result, the interest rates on Airport bonds are higher than on traditional, non-AMT tax-exempt municipal bonds. In the current bond market, the interest rate on AMT bonds can be as much or more than a full 1% higher than non-AMT municipal tax-exempt bonds. The December 23<sup>rd</sup> staff report noted that the federal stimulus legislation might include a temporary suspension of the AMT provision on airport bonds. As we now know, the final stimulus legislation signed by President Obama on February 17<sup>th</sup>, 2009 does indeed include a temporary exemption of airport bonds from the

Alternative Minimum Tax. All new airport bonds issued in calendar years 2009 and 2010 will be fully tax-exempt for their entire life and will not be subject to the AMT. This is extremely welcome news as it immediately lowers our anticipated interest rate on the Airport bonds by as much as a full 1%.

The December 23<sup>rd</sup> staff report noted that the negative news in the credit markets was substantially offset by extremely good news on the project cost. On Tuesday, December 16, 2008, bids were opened for the main terminal project construction contract. As we hoped would be the case given the recessionary environment, the City received extremely favorable bids. The apparent low bid of \$32.5 million is almost 29% below the engineers' estimate of \$45.6 million. The second low bid is \$34.9 million. Staff noted that it would be extremely unfortunate if we are not able to take advantage of these favorable bids due to the lack of available financing. The construction bids are valid for 90 days from the December 16<sup>th</sup> bid opening, giving us until March 16, 2009 to award the bid.

#### Current Status of Project and Financing

As mentioned above, issuance of the bonds has been on hold while awaiting passage of the AMT relief and better market conditions. While we now have the AMT relief and the market for municipal bonds appears to have stabilized and even improved, there is no way we will be able to issue the bonds prior to the March 16<sup>th</sup> bid award deadline. Therefore, we are left to choose between 1) allowing the bids to lapse and re-bidding when we actually sell the bonds and 2) awarding the construction contracts prior to the sale of the bonds. Given the extremely favorable bids already in hand, the real possibility that re-bidding would result in higher bids and the very high likelihood that the Santa Barbara Financing Authority will be able to sell the bonds at a reasonable interest rate of around 6% within the next 90 to 120 days, staff recommends that the City proceed with bid award even though the Santa Barbara Financing Authority has not yet sold the bonds.

If Council approves this approach, the City would essentially self-finance the project until the Santa Barbara Financing Authority is able to sell the bonds. Until the bonds are sold, project costs incurred and paid by the Airport would be loaned to the Airport Fund by the City. An Airport promissory note would be issued which would be purchased by and for the City's investment portfolio. This is identical to the way the City assisted the Airport with interim financing for the joint use rental car facility. This would use no monies from or have any impact on the City's General Fund. The Airport Fund would pay the City interest on the borrowed funds as they are drawn down. If the bonds are sold within the 90 to 120 day timeframe as staff believes is probable, it is likely that the Airport will need an advance of no more than \$3 to \$5 million.

#### Risks

*Construction Bid Risk* - While it is impossible to be certain, staff believes that re-bidding the project could result in higher, and perhaps substantially higher, bids. We have been and are rightfully concerned about the financing costs and obtaining a reasonable interest rate on the bonds but savings from lower financing costs can be quickly offset by higher project costs.

*Financing Risks* - It is important that the Council understand the risk associated with this recommended approach. If for any reason the Santa Barbara Financing Authority is unable to sell the bonds within a reasonable period of time, the City would be committed to self-financing a project of more than \$50 million for an extended period of time. While the City certainly has sufficient cash and investments to do this, tying up this amount of money for a 20-year period of time is clearly not something the City would choose to do. While this risk must be clearly understood and acknowledged, staff believes it to be extremely unlikely that the Santa Barbara Financing Authority will not be able to sell the bonds sometime within the next two years. In fact, after discussions with the financing team including the City's underwriter (Morgan Stanley) and our financial advisor, we believe we will be able to sell the bonds at a reasonable interest rate (around 6% or less) within the next 90 to 120 days.

There are certain time constraints that must be kept in mind. Under federal tax law, the City has the right to reimbursement from the sale of tax-exempt bonds for project costs up to three years after the first project costs were incurred. In this case, it means the Santa Barbara Financing Authority would be allowed to sell tax-exempt Airport bonds for this project until approximately March, 2012. After that, the City would only be able to obtain reimbursement for the project costs using taxable debt. Also, as mentioned above, in order to take advantage of the tax-exempt AMT relief, the bonds will have to be sold in calendar years 2009 or 2010.

As mentioned above, evidence suggests that the tax-exempt bond market is showing some signs of recovery. For example, on February 11<sup>th</sup>, the San Diego Regional Building Authority sold \$136.9 million of tax-exempt debt at an interest rate of less than 5.5%. What makes this interesting is that the San Diego deal had the exact same credit ratings as our deal has and will have. These are extraordinary times and the bond markets have been extremely thin and volatile. However, with the removal of the AMT penalty on airport bonds, staff is confident that the Santa Barbara Financing Authority will be able to sell the bonds within a short time after we are ready to do so.

### Summary

Based on recent developments including the lifting of the AMT provision on tax-exempt airport bonds and an apparent loosening in the tax-exempt municipal bond market, staff believes that the risk of higher prices as a result of re-bidding the terminal construction contract outweighs the risk of a potential delay in bond issuance. That combined with our ability to self-finance the construction for a 6 to 12 month period of time, if necessary, leads staff to recommend that we proceed with bid award on March 10.

At its meeting on February 24, 2009, the Finance Committee voted unanimously to recommend this course of action to Council.

**SUBMITTED BY:** Robert D. Peirson, Finance Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** March 10, 2009

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Contract For Construction Of Santa Barbara Airport Temporary Facilities And Site Preparation Project

**RECOMMENDATION:** That Council:

- A. Hold a hearing to consider any possible bid protest with respect to award of the Santa Barbara Airport Temporary Facilities and Site Preparation Project contract to the apparent lowest responsible bidder;
- B. Reject all bid protests submitted by bidders to the award of the Santa Barbara Airport Temporary Facilities and Site Preparation Project contract to the apparent lowest responsible bidder;
- C. Award and authorize the Public Works Director to execute a contract with Lash Construction (Lash) in their low bid amount of \$3,475,850 for construction of the Santa Barbara Airport Temporary Facilities and Site Preparation Project, Bid No. 3,555, and authorize the Public Works Director to approve expenditures up to \$350,000 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment; and
- D. Authorize the Public Works Director to execute a contract with Howard, Needles, Tammen & Bergendoff, Inc. (HNTB), in the amount of \$648,361 for construction support services, and approve expenditures of up to \$32,500 for extra services of HNTB that may result from necessary changes in the scope of work.

**DISCUSSION:**

**PROJECT DESCRIPTION**

The Airline Terminal Improvement Program involves construction work under several contracts. The first contract is to make ready the air-side of the terminal by constructing a new aircraft parking apron and realigning and widening Taxiway B adjacent to the new terminal and parking apron. Construction of this work began in September 2008 and will be completed by April 30, 2009, weather permitting.

The subject contract, which will be the second construction contract for the terminal, is to prepare the site for construction of the new terminal building. This involves temporary site improvements so the existing terminal can continue to function normally, and making improvements to the soils underlying the new terminal building foundation.

Temporary site improvements include re-routing the terminal loop road and creating a new passenger pick-up and drop-off curb. The southerly baggage claim tent will also be moved to the northeast side of the terminal, next to the other baggage claim tent. The temporary road will be rerouted through a portion of the existing short term parking lot and exit to Fowler Road as it does today. This will allow the new terminal building site to be completely fenced off so construction activities do not interfere with normal terminal operations.

The soil improvement component of the work is needed to strengthen underlying soils so that they will support the new building. The existing soils are loose, unconsolidated sands, which are highly susceptible to liquefaction during an earthquake. The contractor will strengthen the soils down to a depth of 40 feet with a process called compaction grouting. This high-tech process will compact site soils so they will support the loads from a conventional building foundation system. This eliminates the need for costly caissons or pilings, which are often used in these types of soil conditions.

#### CONTRACT BIDS

A total of five bids were received for the subject work, ranging as follows:

	<b>BIDDER</b>	<b>BID AMOUNT</b>
1.	Lash Construction Santa Barbara	\$3,475,850
2.	Granite Construction Santa Barbara	\$3,557,000
3.	Raminha Construction Atascadero	\$3,796,200
4.	R. Burke Corporation San Luis Obispo	\$3,811,180
5.	Whitaker Contractors San Luis Obispo	\$3,889,094

Granite filed a bid protest against the apparent low bidder's bid. The protest asserts that the low bidder did not meet bid specifications because the electrical subcontractor did not meet the experience requirements of the contract specifications. As part of a thorough investigation, the apparent low bidder provided documentation indicating that the listed subcontractor would utilize a second tier subcontractor that met all bid specifications. Staff recommends that the City Council reject the bid protest and find that the low bid of \$3,475,850, submitted by Lash, is a responsible bid that is responsive to and meets the requirements of the bid specifications.

The change order funding recommendation of \$350,000, or 10%, is typical for this type of work and size of project.

**CONSTRUCTION PHASE CONTRACT SERVICES**

Staff recommends that Council authorize the Public Works Director to execute a contract with HNTB in the amount of \$648,361 for materials testing, construction management, and inspection services. HNTB was selected to provide construction management services for this Project under a competitive selection process.

**FUNDING**

A detailed discussion concerning the funding for this contract, as well as the Santa Barbara Airline Terminal contract, is provided in a separate Council Agenda Report prepared by the City Finance Director.

The following summarizes the expenditures recommended in this report:

**CONSTRUCTION CONTRACT FUNDING SUMMARY**

	<b>Basic Contract</b>	<b>Change Funds</b>	<b>Total</b>
Lash Construction	\$3,475,850	\$350,000	\$3,825,850
HNTB	\$648,361	\$32,500	\$680,861
<b>TOTAL RECOMMENDED AUTHORIZATION</b>			<b>\$4,506,711</b>

**SUSTAINABILITY IMPACT:**

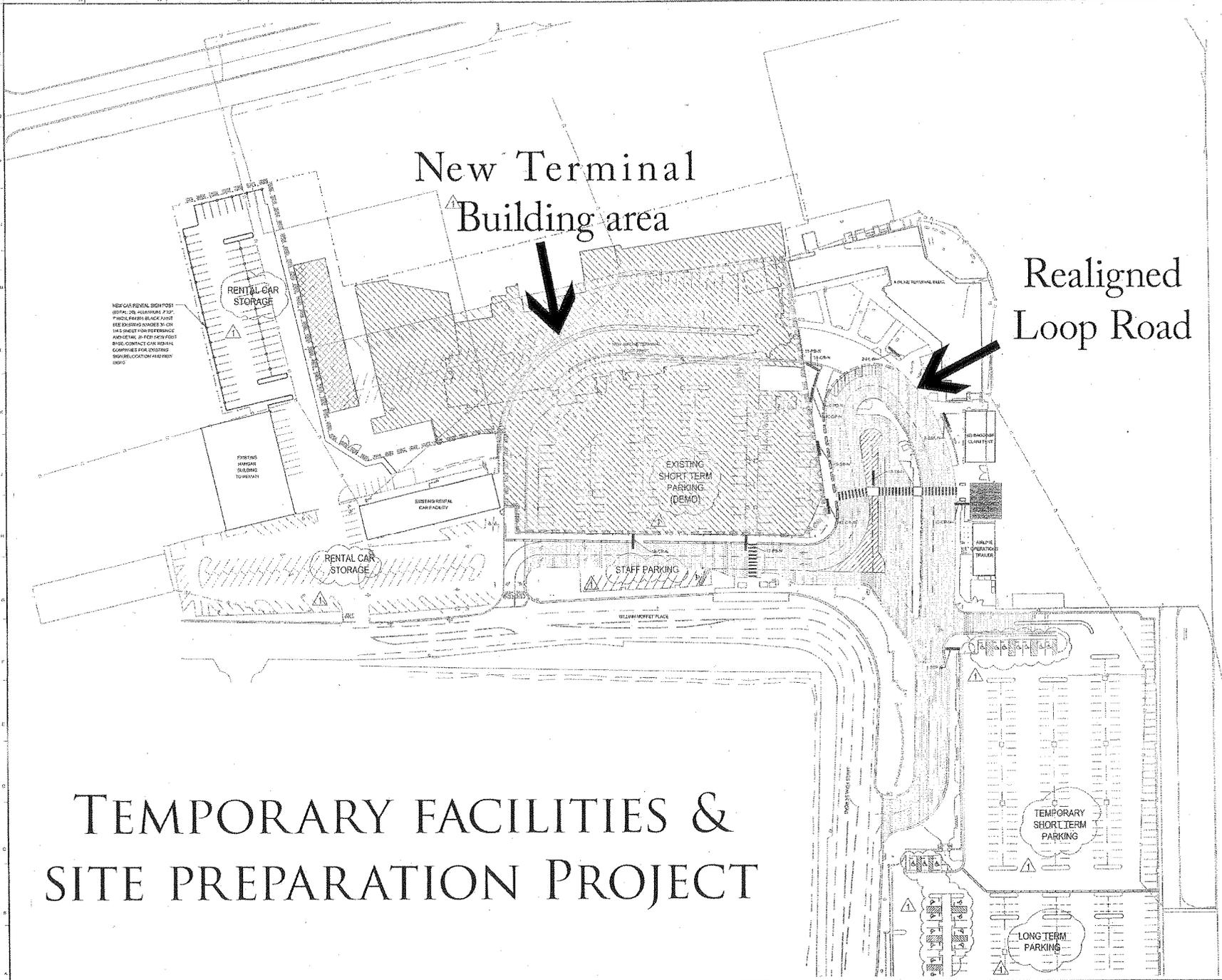
The Airline Terminal Improvement Program (including this work) has been registered with the United States Green Building Council with the goal of a Leadership in Energy and Environmental Design Silver rating. The work under this contract will contribute to the City's sustainability goals primarily through a Construction Best Management Plan and by recycling pavement materials that are being removed.

**ATTACHMENT:** Temporary Facilities and Site Preparation Project Map

**PREPARED BY:** Owen Thomas, Principal Engineer/sk

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office



# TEMPORARY FACILITIES & SITE PREPARATION PROJECT

**HNTB**  
**HNTB Architecture**  
 The HNTB Companies  
 14000 Wilshire Blvd., Suite 200  
 Los Angeles, CA 90045  
 310.407.1000  
 www.hntb.com

**Professional Seal**  
 State of California  
 License No. 10000

**Professional Seal**  
 State of California  
 License No. 10000

**AIRLINE TERMINAL IMPROVEMENT PROJECT**  
 SANTA BARBARA MUNICIPAL AIRPORT  
 SANTA BARBARA, CALIFORNIA

**CITY OF SANTA BARBARA**  
 PUBLIC WORKS DEPARTMENT - AIRPORTS DIVISION  
 APPROVED: *[Signature]* DATE: 11/11/11  
 AIRPORT DRAWING NO. C-5-11000

**TEMPORARY FACILITIES AND SITE PREPARATION**

DATE	DATE IN CHARGE
PROJECT NO.	CONTRACT NO.
PROJECT NAME	SHEET NO.
DATE	DATE
DATE	DATE
DATE	DATE

SHEET TITLE & NUMBER  
 SITE SIGNAGE PLAN

**TF-A14.1**



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** March 10, 2009

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Contract For Construction Of Santa Barbara Airport Airline Terminal Improvement Project

**RECOMMENDATION:** That Council:

- A. Hold a hearing to consider any possible bid protest with respect to award of the Santa Barbara Airport Airline Terminal Improvement Project contract to the apparent lowest responsible bidder;
- B. Reject all bid protests submitted by bidders to the award of the Airline Terminal Improvement Project contract to the apparent lowest responsible bidder;
- C. Award and authorize the Public Works Director to execute a contract with EMMA Corporation (EMMA) in its low bid amount of \$32,858,000 for the base bid, plus bid alternates 1 and 2, for construction of the Santa Barbara Airport Airline Terminal Improvement Project (Project), Bid No. 3,556, and authorize the Public Works Director to approve expenditures up to \$3,440,000 to cover any cost increases that may result from contract change orders for extra work and differences between estimated bid quantities and actual quantities measured for payment;
- D. Authorize the Public Works Director to execute a contract with Howard, Needles, Tammen & Bergendoff California Architects, P. C. (HNTB) in the amount of \$4,181,135 for construction support services, and approve expenditures of up to \$209,055 for extra services of HNTB that may result from necessary changes in the scope of work; and
- E. Authorize the Public Works Director to approve a contract with Padre Associates (Padre) in the amount of \$48,200, and approve expenditures of up to \$4,800 for extra services of Padre that may result from necessary changes in the scope of work.

## **DISCUSSION:**

### **EXECUTIVE SUMMARY**

Staff recommends to the City Council award of a contract for construction of the Santa Barbara Airport Airline Terminal Improvement Project to EMMA Corporation of Santa Monica in the amount of \$32,858,000. The work includes construction of a new 72,000 square foot terminal building, demolition of a portion of the existing terminal, and relocation and rehabilitation of the historic 1942 Airport terminal core. The work also includes construction of necessary site work, landscaping, parking lots, terminal ramp and vehicular access.

Staff further recommends to the City Council award of a contract for construction management services to the firm of Howard, Needles, Tammen & Bergendoff California Architects, P. C. in the amount of \$4,181,135 and award of a contract for environmental services support to the firm of Padre Associates in the amount of \$48,200.

### **PROJECT DESCRIPTION**

The Airport Airline Terminal Improvement Program includes the construction of a new 72,000 square foot airline terminal building, rehabilitation of the 1942 portions of the existing terminal, reconfiguration of the short term parking lot, loop road and installation of associated landscaping. To allow the existing terminal to remain in operation during construction of the new facility, the project has been divided into three construction contracts and two professional services contracts:

Contract 1 consists of the Airside Improvements and is currently underway. This work includes the construction of a new aircraft parking apron and the realignment and widening Taxiway B located adjacent to the new terminal. Contract 1 was awarded to Granite Construction in the amount of \$3,560,267. Construction under the contract began in September 2008 and will be completed by April 30, 2009, weather permitting.

Contract 2 consists of the Temporary Facilities and Site Preparation necessary to prepare the airline terminal site for construction of the new terminal building. Staff recommends to the City Council award of this contract in the amount of \$3,475,850 to Lash Construction concurrently with the award of Contract 3 for the airline terminal building. Contract 3 includes the work necessary to enhance the soils underlying the new terminal building foundation and to install and construct temporary site improvements necessary to allow the existing terminal to continue operations during construction of the new facility.

Contract 3, the subject of this Council Agenda Report, entails construction of the Santa Barbara Airport Airline Terminal complex. The work includes construction of the new terminal building, rehabilitation of portions of the existing historic 1942 Airport terminal and roadway and short term parking lot improvements. After careful examination and verification of all bids and bidders responding to the request for bids, staff recommends

that EMMA Corporation be determined by the City Council to be the lowest responsible bidder in accordance with Section 519 of the Santa Barbara City Charter and award to EMMA the construction contract in the amount of \$32,858,000. The contract includes the base bid amount of \$32,500,000, plus two bid alternates to provide photovoltaic panels on a portion of the terminal roof in the amount of \$349,000 and to provide polished concrete flooring in lieu of carpet in the amount of \$9,000.

Contracts 4 and 5 are for professional services related to the construction work. Contract 4 is the recommended award of a contract for construction management services to HNTB in the amount of \$4,181,135. Contract 5 is the recommended award of a contract for environmental support services to Padre Associates in the amount of \$4,800.

### CONTRACT BIDS

A total of nine bids were received for the Airport Airline Terminal Improvement Project work, ranging as follows:

<b>BIDDER</b>	<b>BID AMOUNT*</b>
	* Base bid plus Alternates 1 and 2
1. EMMA Corporation Santa Monica	\$32,858,000
2. Swinerton Builders Irvine	\$35,090,000
3. Prowest Contractors Wildomar	\$35,557,000
4. Sinanian Development, Inc. Tarzana	\$36,090,000
5. Howard Wright Constructors Irvine	\$36,640,000
6. Pinner Construction Anaheim	\$37,148,000
7. Viola Constructors Oxnard	\$38,023,000
8. Malicraft, Inc. Altadena	\$38,478,000
9. FTR International, Inc. Irvine	\$39,058,000

## LOWEST RESPONSIBLE BIDDER

The lowest bid submitted in response to the request for bids on the Airline Terminal Improvement Project was EMMA Corporation from Santa Monica California. EMMA has been in the construction business in California for 27 years. It has a bonding capacity of approximately \$150,000,000. EMMA has a reputation of successfully completing its construction work. No claims have been made by project owners seeking payment on any of EMMA's performance bonds. EMMA's construction work in the past has primarily been related to school buildings and campuses. As part of the bid package, EMMA listed eleven projects which were of similar complexity as the Airline Terminal Improvement Project. These eleven similar projects range in value from \$8 million to \$28 million. Currently, EMMA is working on a \$28,000,000 contract for a new school facility for Los Angeles Unified School District. As part of its bid review, staff contacted project owners, building inspectors and architects for recommendations on EMMA's work. The responses were favorable and included that EMMA's work was satisfactory and on time. The responder's valued EMMA's integrity and said that EMMA maintained good communication on project progress. All responders positively recommended EMMA as a general contractor. Staff determined that EMMA's past work, even though primarily on school facilities, was similar and demonstrated ample comparable work. Because most of the Airline Terminal Project work is outside the Airport Operations Area, it is staff's opinion that specialized airline terminal experience is not required.

Based on a thorough review of EMMA's bid including its past experience and references, staff has concluded that EMMA is responsible and capable of performing this project in accordance with the bid specifications. EMMA's bid is therefore, in staff's opinion, the lowest responsible bid on the Airline Terminal Improvement Project.

## BID PROTEST

Staff recommends that the City Council conduct a hearing to consider any bid protests made by bidders to the City's award of the Airline Terminal contract to the apparent lowest responsible bidder, EMMA. Swinerton Builders submitted a letter to the City dated December 24, 2008 in which it raised several concerns with the apparent low bidder's bid. These concerns were clarified by Swinerton in an additional letter submitted to the City on February 19, 2009 and in a follow-up meeting held between Swinerton representatives, Public Works Department staff and the City Attorney's Office. Swinerton asserts that EMMA's bid is non-responsive because EMMA's listed electrical subcontractor is, according to Swinerton, not qualified to perform the security, telecommunications and audio paging work in accordance with the bid specifications. Specifically, Swinerton asserts that contrary to the bid specifications, the electrical subcontractor did not list second tier subcontractors, suppliers and manufactures that were authorized and certified to supply and install the recommended systems.

Swinerton also asserts that EMMA's bid is non-responsive because EMMA itself does not have the qualifications and experience required by the bid specifications as necessary and appropriate to be the general contractor for the Airline Terminal Improvement Project. Swinerton's December 24, 2008 and February 19, 2009 letters are available for City Council member review in the Council reading file and available for public review in the City Clerk's Office.

EMMA responded to Swinerton's concerns in correspondence to the City dated January 7, 2009, and February 25, 2009. EMMA's responses indicate that EMMA and its listed electrical subcontractor will fully comply with all of the City's bid specifications. EMMA's letter dated February 25, 2009, provided the names and bids of the second tier subcontractors which will supply, manufacture, and install the security, telecommunications, and audio paging systems as recommended in the bid specifications. EMMA also provided additional details and considerable background information concerning its qualifications and experience as a general contractor on similar projects in its written materials to the City. EMMA's January 7, 2009 and February 25, 2009 letters are available for City Council member review in the Council reading file and available for public review in the City Clerk's Office.

City staff evaluated and responded to the assertions made by Swinerton in correspondence dated January 26, 2008 and March 2, 2009 (Attachment No. 2). The California Public Contract Code requirements pertaining to subcontracting is that the prime contractor list the name of each subcontractor who will perform work for the prime contractor in an amount in excess of one-half of 1 percent of the prime contractor's total bid. EMMA listed all subcontractors meeting this definition. Furthermore, contrary to Swinerton's assertions, the City bid specifications do not require the listing of second tier contractors and the specifications allow them to be changed before contract award. EMMA's subcontractor has now listed second tier contractors with all the required authorizations and certifications to supply and install the recommended security, telecommunications and audio paging systems.

City staff also carefully reviewed EMMA's experience on similar projects and contacted many of EMMA's references. Staff has concluded that EMMA clearly has the required qualifications and experience to perform the Airline Terminal Project. Public Works and City Attorney staff recommend that the any protest made to the lowest responsible bidder be rejected and that the bid of \$32,858,000, be determined as the lowest bid and submitted by a contractor which is both responsible and which has been responsive. As a result, staff recommends that the Airline Terminal Improvement Project contract be awarded to EMMA.

The change order funding recommendation of \$3,440,000, or about 10%, is typical for this type of work and size of project.

**CONSTRUCTION PHASE CONTRACT SERVICES**

Staff also recommends that Council authorize the Public Works Director to execute a contract with HNTB in the amount of \$4,181,135 for materials testing, construction management, and inspection services. HNTB was selected to provide construction management services for this Project under a competitive selection process. Staff also recommends that the General Services Manager be authorized to approve a contract with Padre for \$48,200 for assistance with management of hazardous materials known to be on the site.

**FUNDING**

A detailed discussion concerning funding for this contract, as well as the contract for construction of the Santa Barbara Airport Temporary Facilities and Site Preparation Project, is provided in a separate Council Agenda Report prepared by the City Finance Director.

The following summarizes the expenditures recommended in this report:

**CONSTRUCTION CONTRACT FUNDING SUMMARY**

	<b>Basic Contract</b>	<b>Change Funds</b>	<b>Total</b>
EMMA Corporation	\$32,858,000	\$3,440,000	\$36,298,000
HNTB	\$4,181,135	\$209,055	\$4,390,190
Padre	\$48,200	\$4,800	\$53,000
<b>TOTAL RECOMMENDED AUTHORIZATION</b>			<b>\$40,741,190</b>

**SUSTAINABILITY IMPACT:**

The Airline Terminal Improvement Program has been registered with the United States Green Building Council with the goal of a Leadership in Energy and Environmental Design Silver rating.

**ATTACHMENTS:** 1. Project Site Map  
 2. City of Santa Barbara correspondence dated 1/26/09 and 3/2/09

**PREPARED BY:** Owen Thomas, Principal Engineer/sk

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office



Terminal site plan



# City of Santa Barbara

## Public Works Department

[www.SantaBarbaraCA.gov](http://www.SantaBarbaraCA.gov)

January 26, 2009

Main Offices  
630 Garden Street  
P.O. Box 1990  
Santa Barbara, CA  
93102-1990

Mr. Gust Soteropulos  
Swinerton Builders  
863 South Figueroa Street, Suite 3000  
Los Angeles, CA 90017-3009

Administration  
Tel: 805.564.5377  
Fax: 805.897.2613

Subject: Santa Barbara Airport Terminal - Bid No. 3556

Engineering  
Tel: 805.564.5363  
Fax: 805.564.5467

Dear Mr. Soteropulos:

Facilities  
Tel: 805.564.5415  
Fax: 805.897.2577

The City of Santa Barbara has received your December 24, 2008 protest of EMMA Corporation's bid for the City's Airline Terminal project, Bid No 3556. We have reviewed the information presented in your letter and respond as follows to each allegation:

Street Maintenance  
Tel: 805.564.5413  
Fax: 805.897.1991

1. EMMA's bid is non-responsive because EMMA's electrical subcontractor and listed supplier are not qualified to perform the security telecommunications and audio paging work.

Transportation Operations  
Transportation Planning  
Tel: 805.564.5385  
Fax: 805.564.5467

The City responds to this allegation is as follows:

Water Resources  
Tel: 805.564.5387  
Fax: 805.897.2613

EMMA will use Gilmartin/ExcelSystems for the security and telecommunications work and we are informed that they are fully qualified to work on Johnson Control Systems, as well as the Systimax telecommunication system. Note that the specifications allow for substitution of subcontractors, and proposed equipment and material suppliers with written approval of the City. EMMA has assured us that that only authorized suppliers and certified installers will be used on the project.

Granada Offices  
1221 Anacapa Street  
Santa Barbara, CA 93101

2. EMMA is not a responsible bidder for this Project because EMMA does not satisfy the qualification requirements of the Project Specifications.

Environmental Services  
(Recycling Programs)  
Tel: 805.564.5587  
Fax: 805.564.5688

The City responds to this allegation as follows:

Downtown Parking  
1221 Anacapa Street  
Santa Barbara, CA 93101  
Tel: 805.564.5656  
Fax: 805.564.5655

We have carefully reviewed EMMA's experience in the construction of similar steel framed and other buildings. We have also interviewed several Owner's who EMMA has worked for and this leads us to the conclusion that EMMA has performed satisfactorily other contracts of like nature, magnitude and comparable difficulty and comparable rates of progress.

Additionally, because EMMA has not completed projects funded by the Federal Government does not render their proposal non-responsive. EMMA has significant

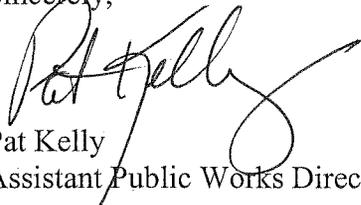
experience on projects with other similar government type funding and corresponding special contract requirements.

With regard to EMMA's experience working with relocation and rehabilitation of the historic Terminal, the value of this work is less than one half of one percent, therefore it was not required that a subcontractor be listed. The City will assure that only skilled workers meeting the requirements of the contract specification will perform the rehabilitation work.

Finally, a copy of your protest letter was sent to EMMA Corporation for their review and comment. Their response dated January 7, 2009 is attached to this letter. If you have any additional information to support the grounds for your protest, please submit that documentation or additional information as soon as possible to the undersigned. Once we have evaluated this additional information if any, we will make a recommendation on the bid award.

We appreciate your interest in the project. Please call Owen Thomas, Principal Engineer at 805 692-6018 if you have any other questions about this matter.

Sincerely,



Pat Kelly  
Assistant Public Works Director/City Engineer

OT/sk

Encls: Emma Corporation letter (January 7, 2009)

c: Karen Ramsdell, Airport Director  
Christine F. Andersen, Public Works Director



# City of Santa Barbara

Public Works Department

www.SantaBarbaraCA.gov

March 2, 2009

Main Offices  
630 Garden Street  
P.O. Box 1990  
Santa Barbara, CA  
93102-1990

Administration  
Tel: 805.564.5377  
Fax: 805.897.2613

Engineering  
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Fax: 805.564.5467

Facilities  
Tel: 805.564.5415  
Fax: 805.897.2577

Street Maintenance  
Tel: 805.564.5413  
Fax: 805.897.1991

Transportation Operations  
Transportation Planning  
Tel: 805.564.5385  
Fax: 805.564.5467

Water Resources  
Tel: 805.564.5387  
Fax: 805.897.2613

Granada Offices  
1221 Anacapa Street  
Santa Barbara, CA 93101

Environmental Services  
(Recycling Programs)  
Tel: 805.564.5587  
Fax: 805.564.5688

Downtown Parking  
1221 Anacapa Street  
Santa Barbara, CA 93101  
Tel: 805.564.5656  
Fax: 805.564.5655

Via Overnight Delivery and Facsimile

Gust Soteropulos  
Vice President Operations Manager  
Swinerton Builders  
865 South Figueroa Street  
Suite 3000  
Los Angeles, CA 90017-3009

Re: Bid No. 3556 Santa Barbara Airport Terminal  
Swinerton Bid Protest

Dear Mr. Soteropulos,

Thank you for meeting with Owen Thomas, Leif Reynolds, Sarah Knecht and myself last week regarding the possible bid protest which may be made by Swinerton Builders ("Swinerton") on the bid submitted to the City of Santa Barbara by the apparent lowest responsible bidder, EMMA Corporation ("EMMA"). Enclosed with this letter, please find a letter dated February 25, 2009, from EMMA Corporation, with attachments, responding to the assertions made in your letter dated February 19, 2009.

The Santa Barbara City Council is scheduled to hold a public hearing to consider any possible bid protest with respect to the Airline Terminal contract on March 10, 2009, at 2:00 p.m., or as soon thereafter as the matter may be heard, in the City Council chambers located at 735 Anacapa Street, Santa Barbara. If Swinerton still wishes to pursue a protest to the possible award of this contract to the apparent lowest responsible bidder, the City encourages you to attend this hearing and present your information and assertions to the City Council. Following the hearing on any potential bid protest, the City Council may reject or accept the bid protest and may award the contract to the lowest responsible bidder.

As a supplement to the City's letter to you dated January 29, 2009, the City provides the following additional responses to the possible bid protest as expressed in the Swinerton letters to the City dated December 24, 2008, and February 19, 2009:

**A. Swinerton Asserts:** EMMA's bid is non-responsive because EMMA's listed electrical subcontractor and listed supplier are not qualified to perform the security, telecommunications and audio paging work. Specifically, EMMA's bid does not comply with the requirements for the security system.

Gust Soteropulos  
Vice President Operations Manager  
Swinerton Builders  
March 2, 2009  
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GEC is not qualified to perform the security system work in accordance with Specification Section 13720-1.3 (performance requirements). Furthermore, pursuant to Specification Section 13720 3.4A – Bid Compliance Requirement – Security Systems, since EMMA, or its subcontractor, GEC, must be proposing to use an alternate security system, EMMA must provide supporting technical specifications. Swinerton assumes in its February 19, 2009 letter that EMMA is proposing to change out the security system.

**Response:** California Public Contract Code section 4104 requires that the prime contractor list the name and location of the place of business of each subcontractor who will perform work to the prime contractor in or about the construction or the work in an amount in excess of one-half of 1 percent of the prime contractor's total bid. As required by the Public Contract Code, EMMA listed Gilmartin Electrical Contracting ("GEC") as its electrical subcontractor.

Contrary to Swinerton's suggestion, second tier contractors need not be listed at the time of bid. Furthermore, as provided in the bid specifications, proposed Equipment and Material Manufactures may be substituted before contract award and after award with written approval of the City.

EMMA's submitted Equipment and Material Manufactures sheet lists six different manufactories and one supplier. EMMA does not list Johnson Controls specifically and its second tier subcontractor, Excell Systems, is alleged by Swinerton to not be "authorized" to work on Johnson Controls systems. EMMA has confirmed to the City that its electrical subcontractor, GEC, will contract with Tech Controls, as a second tier contractor, to furnish and install Bid section 13720. Tech Controls installer, ECS, is authorized by Johnson Controls to work on the existing P2000 Security Management System. The material list submitted by EMMA, attached to its February 25, 2009 letter, specifies use of Johnson Controls door controllers, P2000 site software upgrade and iclass card.

Additionally, Johnson Controls, by letter dated February 24, 2009, has confirmed and now acknowledges that ECS is a Johnson Controls Authorized Building Control Specialist and Authorized Building Security Specialist distributor of such products and is currently in good standing with Johnson Controls.

Furthermore, as confirmed by EMMA in its letter of February 25, 2009, Johnson Controls systems will be utilized and therefore no substitutions were or are proposed by EMMA.

**B. Swinerton Asserts:** EMMA's bid does not comply with the requirements for the telecommunications system. EMMA's subcontractor, GEC, does not comply with the quality assurance specification listed in Section 17700 1.6B.2, 3, 5 and 6 of the bid specifications.

Gust Soteropulos  
Vice President Operations Manager  
Swinerton Builders  
March 2, 2009  
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**Response:** The bid specifications require documentation of experience after award of contract. However, in order to satisfy this inquiry, EMMA's subcontractor, GEC, has provided a letter from a second tier subcontractor, PCC Network, which indicates that PCC is an authorized "Systimax" cabling installer and has RCDD's on staff and BICSI certified installers.

**C. Swinerton Asserts:** EMMA's bid does not comply with the requirements of the audio paging system. The equipment and manufacturer listed for the audio paging system specified in Division 17790 lists Atlas Sound as the manufacture and Excel System as the supplier. Atlas does not manufacture a product that can comply with 17790. GEC cannot therefore comply with 17790 1.3A and 177901.5A.

**Response:** EMMA's subcontractor, GEC, has obtained and attached a quotation from a second tier subcontractor, AV Direct, for compliance with specification Section 17790 audio paging system that includes IED equipment. The requirement of section 17790 A.1 that experience and references be provided to the City prior to award of contract will be provided and satisfied by EMMA.

**D. Swinerton Assets:** EMMA is not a responsible bidder for the project because it does not satisfy the qualifications and experience requirements of the bid specifications.

**Response:** The bid specifications require the contractor to have performed five similar projects. EMMA has provided ten project references that are in excess of \$10,000,000. Of those ten, four were valued over \$20,000,000. EMMA has completed both infrastructure projects and building projects. EMMA has completed entirely new school campuses. EMMA does not have extensive experience working on Airports (one project listed). However, most of the City airline terminal project is outside the Airport Operations fence. The City considers the airline terminal project to be similar to a new school facility as it has similar infrastructure and a new building. EMMA is building a new school facility right now (LAUSD School 18 with a \$28,000,000 contract amount). Furthermore, the City has contacted many of the references listed by EMMA and is confident that EMMA has the required experience and qualification to perform the City's project.

Furthermore, in response to Swinerton's allegation in its letter of December 24, 2008 that EMMA does not satisfy the requirements of Specification Section 01350 1.6A Contractor's Qualification for Treatment of Historic Materials, the specifications require that the qualification requirements be met by the contractor after contract award but prior to undertaking the work.

Gust Soteropulos  
Vice President Operations Manager  
Swinerton Builders  
March 2, 2009  
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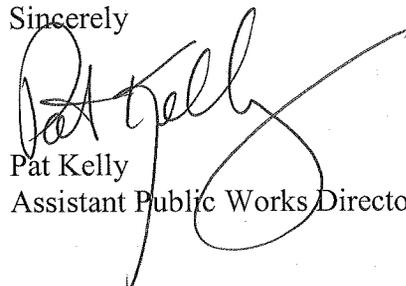
The specification section states, "All work shall be performed by skilled contractors having not less than five years satisfactory experience in comparable protection, salvage and removal operations including work on at least two projects similar in scope and size."

The Airline Terminal Project is an historical rehabilitation, not an historical renovation. A renovation involves a significant amount of salvage and reuse of original materials. As rehabilitation, much of the original building will be demolished, and reconstructed with new materials. There is very little salvage of original material for historical rehabilitation purposes.

In making its decision to award the construction contract to a particular bidder, the City Council has discretion to determine whether a low bidder is "responsible," meaning whether the bidder has the fitness, quality, and capacity to perform the proposed work satisfactorily. Additionally, the City Council must determine whether the bid is responsive to the call for bids, that is, whether the bid promises to do what the bidding instructions demand. In making this legislative decision, the law requires only that City Council may not abuse its discretion and that its action must not be arbitrary, capricious, or entirely lacking in evidentiary support. I can assure you that the City Council has every intention of exercising its appropriate legislative and executive discretion in the manner required by law. This determination is often appropriately dependent on information outside the bidding process and is clearly within the subjective determination of the elected officials of the City.

The City has thoroughly evaluated Swinerton's allegations and EMMA's response and is confident that EMMA is a responsible and responsive bidder. Thank you for your interest in this project.

Sincerely



Pat Kelly  
Assistant Public Works Director/ City Engineer

Enclosure EMMA letter dated February 25, 2009 with attachments  
cc: Karen Ramsdell, Airport Director  
Sarah Knecht, Assistant City Attorney