



City Council Agenda

Regular Meeting

Thursday, January 27, 2011
7:30 PM

City Council Chambers
6330 Pine Avenue

Oscar Hernandez
Mayor

Teresa Jacobo
Vice Mayor

George Mirabal
Councilman

Lorenzo S. Velez
Councilman

Welcome to the City Council Meeting

The Bell City Council and staff welcomes you. This is your City Government. Individual participation is a basic part of American Democracy and all Bell residents are encouraged to attend meetings of the City Council.

Regularly City Council meetings are held once a month at 7:00 p.m., City Council Chambers, 6330 Pine Avenue. For more information, you may call City Hall during regular business hours 8:00 a.m. to 4:00 p.m., Monday through Friday at (323) 588-6211 Extension 217.

City Council Organization

There are five City Council members, one of whom serves as Mayor and is the presiding officer of the City Council. These are your elected representatives who act as a Board of Directors for the City of Bell. City Council members are like you, concerned residents of the community who provide guidance in the operation of your City.

Addressing the City Council

If you wish to speak to the City Council on any item which is listed or not listed on the City Council Agenda, please complete a *Request to Speak Card* available in the back of the City Council Chambers. Please submit the completed card to the City Clerk prior to the meeting.

The Mayor will call you to the microphone at the appropriate time if you have filled out a *Request to Speak Card*. At that time, please approach the podium, clearly state your name and address, and proceed to make your comments.

Compliance with Americans with Disabilities Act

The City of Bell, in complying with the Americans with Disabilities Act (ADA), request individuals who require special accommodation(s) to access, attend, and or participate in a City meeting due to disability. Please contact the City Clerk's Office, (323) 588-6211, Ext. 217, at least one business day prior to the scheduled meeting to insure that we may assist you.

All items submitted for the City Council Agenda must be in writing. The deadline for submitting these items is 4:00 P.M. ten days prior to the meeting. The City Clerk's office receives all such items.

***Meeting of
Bell City Council
Bell Community Redevelopment Agency
Bell Community Housing Authority
Bell Public Finance Authority
Bell Surplus Property Authority
Planning Commission***

***January 27, 2011– 7:30 P.M.
Bell City Council Chambers
6330 Pine Avenue***

I. Call to Order

- 1.01** Pledge of Allegiance to the Flag.
- 1.02** Roll call of City Council in their capacities as Councilmembers, Community Redevelopment Agency Members, Community Housing Authority Commissioners, Public Finance Authority Trustees, Surplus Property Authority Commissioners, Solid Waste Authority Commissioners, and Planning Commissioners.

Mr. Velez _____
Mrs. Jacobo _____
Mr. Mirabal _____
Mr. Hernandez _____

***Meeting of
Bell City Council
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Bell Community Housing Authority
Bell Public Finance Authority
Bell Surplus Property Authority
Solid Waste Authority
Planning Commission***

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1.03 Invocation.

II. Communications From The Public

This is the time and place for the general public to address the City Council, Community Redevelopment Agency, the Community Housing Authority and the Public Finance Authority on items, which are not listed on this Agenda and are within their jurisdiction. State law prohibits any item not previously included on this Agenda from being addressed. Any matter discussed may be referred to the Chief Administrative Officer to submit a report at the next meeting.

III. Council Business

The following items have no legal publication requirements. Pursuant to the Ralph M. Brown Act, public comments may be received on these items prior to the time action is taken by the City Council.

- 3.01** Consideration of a Resolution Adopting an Action Plan to Establish a Policy Blueprint for the City's Fiscal Sustainability 1-88
- Recommendation: Approve Resolution 2011-01 adopting an action plan to establish a policy blueprint for the City's fiscal sustainability.*
- 3.02** Consideration of a Resolution Terminating Certain Post-Employment Benefits as of August 1, 2010 in the Interests of Fiscal Sustainability 1-88
- Recommendation: Approve Resolution 2011-02 regarding certain post-employment benefits effective as of August 1, 2010.*
- 3.03** Consideration of Resolution 2011-03 Regarding Employer Paid Member Contributions for CalPERS 89-91

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Recommendation: Approve Resolution 2011-03, to bring the City into compliance with Revenue Ruling 2006-43 regarding Employer Paid Contributions for CalPERS

- 3.04 Consideration of Change Order No. 4 -- Rancho San Antonio/Bell Sports Complex Off-Site Improvements at Chanslor Ave. and Service Rd. -- Project Account No. 50-521-1004-0235. 92-93

Recommendation: Approve Change Order No. 4 for the Rancho San Antonio/Bell Sports Complex and authorize the Interim CAO or his designee to execute all documents as necessary and appropriate, upon approval as to form by the Interim City Attorney.

- 3.05 Approval of Facility Builder Invoices -- Rancho San Antonio/Sports Complex. 94-101

Recommendation: Approve Facility Builder Invoices for the Rancho San Antonio/Bell Sports Complex and authorize the Interim CAO or his designee to execute all documents as necessary and appropriate, upon approval as to form by the Interim City Attorney.

- 3.06 Approval of Richard Fisher and Associates (RFA) Invoice -- Rancho San Antonio/Sports Complex. 102-105

Recommendation: Approve Richard Fisher and Associates Invoice for the Rancho San Antonio/Bell Sports Complex and authorize the Interim CAO or his designee to execute all documents as necessary and appropriate, upon approval as to form by the Interim City Attorney.

- 3.07 Professional Services Agreement for National Pollutant Discharge Elimination System services with Public Engineering Services, Inc. 106-119

Recommendation: Approve Professional Services Agreement with Public Engineering Services, Inc., for NPDES services and authorize the Interim CAO or his designee to execute all documents as necessary and appropriate, upon approval as to form by the Interim City Attorney.

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- 3.08 Approve Contract Award for Veterans' Memorial Park Installation of Rubberized Playground Surface Project - 6500 S. Wilcox Avenue, Bell. 120-134

Recommendation: Approve Contract Award for Veterans' Memorial Park Installation of Rubberized Playground Surface Project and authorize the Interim CAO or his designee to execute all documents as necessary and appropriate, upon approval as to form by the Interim City Attorney.

- 3.09 Reconsideration of warrants through November 30, 2010. 135

Recommendation: Approve the warrants.

- 3.10 Consideration of Bell City Council Minutes dated November 1, 2010; Bell City Council Special Minutes dated December 1, 2010 and Bell City Council Minutes Dated December 13, 2010. 136-152

Recommendation: Approve the minutes.

- 3.11 Consideration of a resolution setting the dates and times of the City Council's regular meetings from February through April of 2011. 153-155

Recommendation: Approve Resolution 2011-04, setting the dates and times of the Bell City Council's regular meetings for calendar year 2011 (February through April).

- 3.12 Consideration and Rejection of the claim of Gloria McGee, Ana Maloy, Maria Mendez, Alan North and Maria Soria. 156

Recommendation: Reject the claim of Gloria McGee, Ana Maloy, Maria Mendez, Alan North and Maria Soria.

- 3.13 Receive and File – Report describing capital programs and programmatic grants administered by the Department of Community Services 157-158

Recommendation: Receive and File.

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- 3.14 Consideration of Professional Services Agreement with RSCC Engineering, for Interim City Engineering Services 159-173

Recommendation: Authorize the Interim Chief Administrative Officer to execute a professional services agreement with RSCC Engineering, Inc. for engineering services, upon approval as to form by the Interim City Attorney.

- 3.15 Consideration of authorizing the preparation of request for proposals for the following City services: Engineering; graffiti removal, street sweeping, sidewalk steam-cleaning, bus shelter maintenance; para-transit/transportation; public works; and grants management. 174-

- 3.16 Receive and file letter from the Los Angeles County Department of Public Works concerning the relinquishment of Gage Avenue over Los Angeles River 175-183

Recommendation: Receive and File County's report.

- 3.17 Consider Appointment of Assistant Chief Administrative Officer 184

Recommendation: Provide direction to staff.

- 3.18 Professional Services Agreement with Carlson, Calladine & Peterson LLP, for Special Counsel Services 185-191

Recommendation: Authorize the Interim Chief Administrative Officer to execute a professional services agreement with Carlson, Calladine & Peterson LLP, for Special Counsel Services, upon approval as to form by the Interim City Attorney.

- 3.19 Consideration of the 2011 Holiday Schedule. 192

Recommendation: Approve the 2011 Holiday Schedule.

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3.20	Discussion Regarding the Process for Amending the Bell City Charter	193-195
	<i>Recommendation: Provide direction to staff.</i>	
3.21	Consideration of bid award for the Florence Avenue Street Rehabilitation Project from Wilcox Avenue to Walker Avenue Project No. 32-525-7006-0925.	196+197
3.22	Consideration of warrants through January 27, 2011.	198-216
3.23	Consideration of Second Amendment to Franchise Agreement with Consolidated Disposal Services, LLC	217-292

IV. Community Redevelopment Agency

The Bell Community Redevelopment Agency will convene to conduct their business meeting. Pursuant to the Ralph M. Brown Act public comments may be received on agenda items prior to the Board of Directors taking action.

4.01	Consideration of warrants through January 27, 2011.	293
	<i>Recommendation: Approve the warrants.</i>	
4.02	Consideration of Bell Community Redevelopment Agency Minutes dated November 1, 2010 and December 13, 2010.	136-152
	<i>Recommendation: Approve the minutes.</i>	
4.03	Identification of items for next Community Redevelopment Agency meeting.	
4.04	Adjournment	

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V. Community Housing Authority

The Bell Community Housing Authority will convene to conduct their business meeting. Pursuant to the Ralph M. Brown Act public comments may be received on agenda items prior to the Board of Directors taking action.

- 5.01** Consideration of warrants through January 27, 2011. 294-298

Recommendation: Approve the warrants.

- 5.02** Consideration of Bell Community Housing Authority Minutes dated November 1, 2010 and December 13, 2010. 136-152

Recommendation: Approve the minutes.

- 5.03** Identification of Items for next Community Housing Authority meeting.

- 5.04** Adjournment.

VI. Public Finance Authority

The Bell Public Finance Authority will convene to conduct their business meeting. Pursuant to the Ralph M. Brown Act public comments may be received on agenda items prior to the Board of Directors taking action.

- 6.01** Consideration of Bell Public Finance Authority Minutes dated November 1, 2010 and December 13, 2010. 136-152

Recommendation: Approve the minutes.

- 6.02** Consideration of amendment to Exclusive Sale & Lease Listing Agreement with Xebec Development Company 299-306

- 6.03** Identification of Items for next Community Housing Authority meeting.

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6.04 Adjournment.

VII . Public Hearing

The following items have been posted as a Public Hearing as required by law. The Mayor will open the meeting to receive public testimony.

None

VIII. Surplus Property Authority

The Surplus Property Authority will convene to conduct their business. Pursuant to the Ralph M. Brown Act, public comments may be received on agenda items prior to the Board of Directors taking action.

8.01 Identification of items for next Surplus Property Authority Meeting.

8.02 Adjournment.

IX. Solid Waste Authority

9.01 Consideration of Second Amendment to Franchise Agreement with Consolidated Disposal Services, LLC

X. Planning Commission

The Bell Planning Commission will convene to conduct their business meeting. Pursuant to the Ralph M. Brown Act public comments may be received on agenda items prior to the Board of Directors taking action.

10.01 Identification of items for next Planning Commission Meeting.

10.02 Adjournment.

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XI. City Council Closed Session

- 11.01** CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)
Name of case: Julio Endara v. City of Bell
Case No.: Workers' Compensation Case ADJ 6757411
- 11.02** CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)
Name of case: *Jane Doe v. City of Bell*
Case No.: Los Angeles County Superior Court BC372406
- 11.03** CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)
Name of case: *Jane Doe v. City of Bell*
Case No.: United States District Court CV07-505 CAS (VBKx)

XII. Interim Chief Administrative Officer's Report

The Interim Chief Administrative Officer will provide a verbal report to the City Council on on-going matters related to the City.

XIII. Mayor and City Council Communications

Pursuant to Assembly Bill 1234, this is the time and place to provide a brief report on meetings, seminars and conferences attended by the Mayor and City Councilmembers.

The City Council will now reconvene to identify items they wish to discuss at the next meeting. These items will not be acted on at this meeting, only identified for the next meeting.

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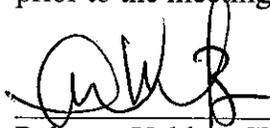
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XIV. Identification of Items for Next City Council Meeting.

XV. Adjournment

Next Regular Meeting, Monday, February 7, 2011 at 7:00 P.M.

I, Rebecca Valdez, CMC, City Clerk of the City of Bell, certify that a true, accurate copy of the foregoing agenda was posted on January 24, 2011 seventy-two hours prior to the meeting as required by law.



Rebecca Valdez, CMC
City Clerk
1579337.4

Meeting of
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City Of Bell Agenda Report

DATE: January 27, 2011

TO: Mayor and Members of the City Council

FROM: Pedro Carrillo, Interim Chief Administrative Officer

SUBJECT: Consideration of Resolution Nos. 2011-1 and 2011-2 adopting an Action Plan and certain immediate measures to restore fiscal sustainability to the City

Background:

The City of Bell (“City”) is facing immediate fiscal challenges, which, without corrective action, will likely lead to the City’s fiscal insolvency. The root of these financial woes was the former administration’s failure to adhere to generally accepted accounting principles, internal control systems, and best practices when making decisions affecting the City’s finances.

In an effort to increase transparency in its operations, and as a means of putting the City’s fiscal house back in order, the City requested an audit from the Office of the State Controller (“State”) and a review of the City’s finances by the Los Angeles County Auditor-Controller (“County”). The State released the first of its four audits in September 2010, and found that the City’s administrative and internal accounting control systems suffer “serious and pervasive” deficiencies.

On January 6, 2011, the County released its findings, which primarily focused on the City’s general fund, and its projected revenues and expenses through the end of Fiscal Year 2010-2011. Based on the County’s review, it is estimated that by year end, the general fund will face a \$2.16 million deficit. However, the County’s figures do not include one-time, extraordinary expenses the City will incur, which are the result of the legal challenges the City is currently facing, along with any funds the City may be required to repay to its residents as the result of costs and claims filed for a variety of fees and charges previously imposed.

Unless the City makes difficult choices to restructure and re-prioritize its expenditures, the City estimates that it will face a deficit of nearly \$3.5-\$4.5 million for the fiscal year ending June 30, 2011. Given the urgency and severity of the City’s financial predicament, below is an overview of the City’s current financial state, along with a number of options the City Council should consider as first steps in restoring the City’s financial stability.

Discussion:

a. The City's Current Budget

In accordance with Section 1102 of the City's Charter, the City Council is permitted to adopt a multi-year budget. The most recent budget was adopted in June 2008, and covered fiscal years 2008 through 2011. Based on the figures in the budget, the City's anticipated revenues for 2011 were \$16,052,277.00, with expenditures being equal to revenue.

However, as previously mentioned, in the course of its financial review, the County found that general fund expenses will exceed revenues this year by \$2.16 million. The County's analysis was based on its review of the City's revenues and expenditures over the last three years, coupled with meetings with staff to identify line items where the City's prior estimates were inaccurate. When performing its calculations, the County reduced certain revenues, and increased certain expenditures. The County acknowledged that it made significant assumptions about the City's finances, and therefore the City's revenues and expenditures may be substantially higher or lower than what the County has estimated.

The City's own calculations reveal an estimated deficit of approximately \$3.5 - \$4.5 million. This figure is based on various assumptions and expectations of expenses and anticipated liability projections.

Pursuant to Article XVI, Section 18 of the California Constitution, the City is prohibited from incurring indebtedness or liabilities which exceed the City's annual revenue, without a two-thirds vote of the City's voters. In order to avoid any constitutional challenges, it is critical that the City Council take immediate action to balance its revenues and expenditures and begin to pave the way to fiscal recovery.

b. Employee Compensation

Employee compensation (excluding the City's Police Department) currently amounts to \$3,622,187.00, which equals approximately 30% of the City's general fund. For years, salaries were unilaterally established by the former Chief Administrative Officer, and were not justified based on payment for like services in similar jurisdictions. By reducing employee compensation, as set forth in greater detail below, the City may be able to minimize reductions to its workforce.

c. Employee Benefits

Currently, the City does not require its employees to make a financial contribution to their retirement. The City pays both the employee and the employer contribution to CalPERS, at an annual cost of \$1,495,166.60 (this figure is for current salaries, and amounts to \$666,876.95 spent on non-police officer employees and \$828,289.64 for police officer employees). As an additional benefit, the City provides its employees with a deferred compensation plan, to supplement their retirement benefits. The City also provides its employees with a supplemental

retirement plan, of which the City also pays the entire contribution. In 2009, the City paid \$618,000.00 into that plan.

In order to be fiscally prudent, and to begin to plan for future liabilities, the City should consider significant restructuring of its retirement benefits, as outlined in further detail below.

d. The City's Police Department

According to the County's review, currently, the City's Police Department operates at a cost of approximately \$8.47 million annually, which is \$2.0 million more than the City's expenditures for all other operations. The Police Department is comprised of 33 full-time sworn staff, along with 12 non-sworn, full-time employees and one full-time equivalent employee. In June, the City's MOU with the Bell Police Officers' Association expired. Under the existing MOU, the City pays the entire amount of each officer's contribution to CalPERS, no approval is needed for overtime and detectives are entitled to \$100.00 in stand-by pay for each day a detective is required to be on stand-by duty. For police officers and their dependents, the City pays the full monthly premium for their health, dental and vision insurance, with the exception of PERS Care.

In light of the City's current financial dilemma, coupled with the status of the current MOU, the City may be able to negotiate more favorable concessions in its upcoming negotiations.

Recommendation:

a. Action Plan

Based on the City's analysis along with the audit conducted by the State and the financial review by the County, it is obvious that the City faces both immediate and future fiscal challenges. Given the complexity of the City's current financial issues, it would be prudent to develop an action plan that would serve as the City's blueprint for the path to financial stability. The proposed action plan is attached hereto as Exhibit "A."

Further, by developing an action plan, the City is being open and transparent in its actions, and is providing the public with a roadmap of the City's intentions as it moves into a new period of financial accountability.

Under the proposed action plan, the following issues are addressed:

i. Transparency

The City has endured intense criticism from both Bell residents and the media concerning the openness and the transparency of its operations. In an effort to rectify the public's perceptions of the City's financial transactions, it is advised that the City provide a comprehensive overview of all elements of employee compensation, and that the City conduct a rigorous cost analysis on compensation packages.

Further, any increase in compensation and/or benefits should be approved at a public meeting by the City Council. Any actions taken concerning compensation and benefits should be posted on the City's website and made available to the public, in accordance with the provisions of the California Public Records Act.

ii. The City's Municipal Code

The City's Municipal Code has not been updated since September 2003, and therefore does not codify the ordinances that have been subsequently adopted. To ensure the public has access to the City's most current laws, it is advised that the City conduct a comprehensive update of its Code.

iii. Compensation and Benefits

The issue that gave rise to the City's current situation was the salary and benefit packages that were given to the City's top management. After further investigation by various entities, it was revealed that a number of City employees were receiving salaries and benefits that appeared excessive when compared to similar positions in surrounding jurisdictions.

Given the public's perception of City salaries, and the fact that those salaries were established by the former CAO, who did not appear to have any mechanism for justifying the expenditures, it is advisable that the City conduct an audit of all compensation and benefit packages given to current employees. Further, the City should compare the packages to other comparable local agencies.

In an effort to address the City's current financial crisis, the City should take immediate steps to reduce salaries across the board, and eliminate all benefit packages that are unaffordable.

iv. The City's Police Department

The City's MOU with its sworn officers expired on June 30, 2010. With an estimated annual cost of \$8.47 million, it is necessary for the City to evaluate the benefits of maintaining its police force. Whatever decisions the City Council makes relative to the Police Department, the City must engage in good-faith negotiations under the Meyers-Milias-Brown Act, to ensure that compensation and benefit packages are reasonable, given the City's financial situation.

v. The City's Credit Rating

In August 2010, the City's credit rating was downgraded due to an anticipated inability to pay off \$35 million in debt from its 2005 issuance of lease revenue bonds. Credit rating agencies closely monitor the financial outlook of municipalities, and the City's failure to reconcile its general fund will likely continue to hinder the City's already beleaguered credit rating. An additional component of restoring financial stability is repairing the City's credit. The City relies on credit to finance capital improvements and infrastructure projects, which in turn enhance the City and attract new businesses and increase the City's tax base. Failure to repair the City's credit will have significant long term detrimental impacts.

b. Salary Reductions

The primary cost driver to the City's general fund is employee salaries and benefits. Given the impact of salaries and benefits on the City, it is imperative that any solution to the current budget crisis address these costs. Due to the severity of the City's financial situation, it may be necessary to impose both across the board salary reductions, and reductions in the City's total workforce.

In order to present the Council with a number of options for potential salary reductions and related savings, below are a number of scenarios which provide an updated general fund balance based on across the board salary reductions of ten, 15, and 20 percent.

SALARY REDUCTION
(Excludes Overtime for all non-exempt employees)

DEPARTMENTS	Projected Annual Salary	Reduction	Proposed Annual Salary After Reduction	Reduction	Proposed Annual Salary After Reduction	Reduction	Proposed Annual Salary After Reduction
MISCELLANEOUS		10%		15%		20%	
Administration	595,465	59,546	535,918	89,320	506,145	119,093	476,372
Police Administration	660,948	66,095	594,853	99,142	561,805	132,190	528,758
General Services	283,743	28,374	255,369	42,562	241,182	56,749	226,995
Community Services P/T	340,713	34,071	306,642	51,107	289,606	68,143	272,570
Community Services P/T	672,259	0	672,259	0	672,259	0	672,259
<i>Total Miscellaneous</i>	<u>2,553,128</u>	<u>188,087</u>	<u>2,365,041</u>	<u>282,130</u>	<u>2,270,997</u>	<u>376,174</u>	<u>2,176,954</u>
SAFETY		10%		15%		20%	
Patrol - Tier 1	2,252,198	225,220	2,026,978	337,830	1,914,368	450,440	1,801,758
Patrol - Tier 2	555,358	55,536	499,822	83,304	472,055	111,072	444,287
<i>Total Safety</i>	<u>2,807,556</u>	<u>280,756</u>	<u>2,526,801</u>	<u>421,133</u>	<u>2,386,423</u>	<u>561,511</u>	<u>2,246,045</u>
GRAND TOTAL	<u>5,360,684</u>	<u>468,843</u>	<u>4,891,841</u>	<u>703,264</u>	<u>4,657,420</u>	<u>937,685</u>	<u>4,422,999</u>

Given the nation's current economic crisis, salary reductions are understandably a difficult decision to make, but with the City's financial predicament, and the percentage of the general fund that is comprised of employee salaries, some form of reduction is necessary to help restore fiscal solvency.

c. Retirement Benefits for Prospective Employees

i. Employee Retirement Contribution

As previously indicated, the City does not require its employees to make a financial contribution to their retirement. The City contributes both the “employer” and “employee” contributions, at an annual cost of \$1,495,166.60. The City’s employee contribution for non-police officer employees is \$204,250.22, and the employee contribution for police officer employees is \$ 252,680.05. The City’s current total “employee contribution” expenditure is \$456,930.27.

It is advised that the City not make any “employee contribution” to CalPERS for prospective non-public safety employees. With respect to public safety employees, this benefit is subject to negotiation in accordance with the Meyers-Milias-Brown Act.

ii. Two-Tiered Retirement Benefit System

As previously set forth, in 2007, the City Council adopted Ordinance No. 1167, which established the percentage of final compensation for non-public safety employees, who were hired or employed by the City after March 2007, at 2.7 percent at age 55. Under current law, the City may only reduce CalPERS benefits for new employees, it cannot make any reductions to the benefits of current employees. It should be noted that in other jurisdictions, management and employees have agreed to changes in their CalPERS benefits in efforts to alleviate fiscal pressures in the long term.

In order to reduce the City’s future liabilities, it is advisable that the City decrease the percentage of final compensation to 2 percent at age 55, bringing the final compensation levels back to the pre-March 2007 level, for all employees hired after the effective date of the Council’s action. For future employees, this reduction would result in an estimated savings of 2.7 to 5 percent of the total payroll of employees that are hired after the reduction is approved. Additionally, the City should explore whether CalPERS benefit levels might be renegotiated with current employees on an individual basis.

iii. Deferred Compensation and Supplemental Retirement

The City previously offered a deferred compensation plan to the former Chief Administrative Officer, the former Assistant CAO and department heads, and made approximately \$144,750.00 in contributions to the plan annually. On August 1, 2010, at the direction of the Interim CAO, the City’s deferred compensation plan was eliminated.

Additionally, the City currently offers a supplemental retirement plan, and contributes the employees’ contribution to that plan. Given that the supplemental retirement plan is an optional benefit, and, in light of the City’s budget woes, it is advisable that the City immediately eliminate this benefit. This will result in a cost savings of approximately \$300,000.00.

d. Overall Reduction in Operational Budgets and Focusing on Core Services

The City currently operates with the following departments: Administration, Community Services, Public Works, and Police. The City has the opportunity to remake its government to address its current financial needs. While the City's goal is to ensure a thriving, livable community, it is imperative to balance the City's fiscal crisis with the need to provide core services to its residents.

At this time, it is advisable to cut non-essential services in each of the City's departments. However, the City must take care to avoid cutting programs that may cause reductions in revenue to the City. Moreover, reductions that may exacerbate the City's liabilities or have long-term costly effects should be avoided as well.

The immediate goal is to work on balancing the City's budget for the fiscal year ending June 30, 2011, while the long-term goal is to establish a well functioning government, that provides residents with essential services, and that has the financial reserves necessary to weather any future storms and ensure the long-term success of the City government in meeting the needs of its residents, businesses and visitors.

e. The City's Police Department

Expenditures for the City's Police Department currently comprise approximately 68 percent of the City's general fund. Given the City's dire financial situation, the Police Department's budget must be evaluated in a manner similar to that of all other City departments. While the County's financial review alluded to the elimination of the Police Department, by suggesting that the City reduce costs by contracting for certain services, this is only but one of several options the City must consider as it creates a plan for its fiscal sustainability.

1. Overtime Costs

Under the City's current MOU with the police officers (this MOU expired on June 30, 2010), each officer must be compensated at time and a half for all hours worked in excess of a 40 hour work week. Compensation may be either in the form of cash or compensatory time off. Currently, no approval is needed for an officer to work overtime.

In an effort to reduce the Police Department's costs, it is advisable that the City require written approval prior to any officer working overtime, and approval should only be made when absolutely necessary. It is imperative that the City have more control over each department's budget. By creating stricter parameters for overtime, the City can more accurately calculate the Police Department's budget, while realizing a cost savings.

2. Overall Reduction in Operational Budget

As with all other City departments, the Police Department must share in the across the board departmental reductions. It is advisable that Police Department management work with the

Interim CAO and the Director of Administrative Services to determine the Department's non-essential services, and prioritize its funding.

3. Contracting with the Los Angeles County Sheriff's Department

Another option the City may consider as it re-evaluates its budget, is contracting with the Los Angeles County Sheriff's Department for police services. It is estimated that this course of action could result in a cost savings of approximately \$3.5 million. The outsourcing of the Department may eliminate the City's entire deficit without having to make further cuts in any other department.

Outsourcing the City's policing services is not a decision that may be entered into lightly. There are a host of community benefits that are derived from having a municipal police department. A city generally has greater control on where to focus officer resources, ideally, the police chief is an integral part of city management, and has frequent discussions with key city staff and the city council on how the department can best serve the needs of the City, and there is greater flexibility on reallocating resources quickly.

However, the City's current financial situation is bleak at best. While it is essential to provide the City with quality public safety services, the City must also operate within budget, and be aware of its financial constraints. The Sheriff's Department, through its Contract Law Enforcement Bureau, currently contracts with 40 of the 88 municipalities in Los Angeles County, and provides contract law enforcement services to approximately 1.8 million residents. By contracting with the Sheriff's Department, the City can avoid duplicate costs because contract cities share resources and pay only their proportionate "user costs." As a result of this "cost sharing" concept, the City would be able to obtain its optimum level of police service for approximately 60 percent less than the cost of the City maintaining its own police department.

The City is faced with many difficult choices as it moves forward in restoring its financial stability. It is incumbent upon the City to review all available options when evaluating its current and future financial situation.

Conclusion:

The City has reached a financial crossroad. The City Council has the opportunity to lay the foundation for the road to a fiscally solvent, open and transparent government. While the recommendations set forth in this report require difficult decisions to be made, without these actions, the City will likely be forced into insolvency.

It is recommended that the Council 1) adopt a resolution establishing an action plan to lead the City to fiscal sustainability; and 2) adopt a resolution terminating all post-employment benefit plans funded by the City and reducing salaries to non-public safety officers.

Attachments:

- A. Resolution No. 2011-01, Resolution to Adopt and Action Plan for Fiscal Sustainability
- B. Resolution No. 2011-02, Resolution to Restore Fiscal Sustainability to the City of Bell
- C. County of Los Angeles Audit
- D. State Controller's Audit

1580571.5

RESOLUTION NO. 2011-01

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL ADOPTING AN ACTION PLAN TO ESTABLISH A POLICY BLUEPRINT FOR THE CITY'S FISCAL SUSTAINABILITY

WHEREAS, the City Council wishes to restore fiscal sustainability, integrity and transparency to the City of Bell; and

WHEREAS, based on the calculations of the Los Angeles County Auditor-Controller's Office, the City currently faces a minimum budget deficit of \$2.16 million for the current fiscal year; and

WHEREAS, for years, employee salaries were unilaterally established by the former Chief Administrative Officer, and were not justified based on payment for like services in similar jurisdictions; and

WHEREAS, expenditures for employee compensation (excluding the City's Police Department) currently amount to \$3,622,187.00, which equals approximately thirty percent (30%) of the City's general fund; and

WHEREAS, the City's Police Department operates at a cost of approximately \$8.47 million annually, which is \$2.0 million more than the City's expenditures for all other government operations; and

WHEREAS, the City currently contributes both the entire employee and employer contributions for retirement benefits through CalPERS at an estimated annual cost of \$1,495,166.60, and the City makes the entire contribution to employees' supplemental retirement plans; and

WHEREAS, the City's pay and benefit structure is currently unsustainable; and

WHEREAS, without immediate, corrective actions, the City will likely become fiscally insolvent; and

WHEREAS, the City faces immediate and long term challenges caused in part by escalating and unfunded costs related to wage and benefit packages that were not fully analyzed and reviewed. The City is committed to ensuring that all labor and employment packages are subject to a rigorous cost analysis, with all terms fully and simply explained in public, and maintained in a manner that will foster easy access by the public; and

WHEREAS, to regain the public's trust and operate in an open and transparent manner, it is essential that the City codify its Municipal Code and organize its compensation documents in a manner that is understandable to the general public; and

WHEREAS, it is imperative that the City adopt an Action Plan that will serve as the City's policy blueprint for restoring fiscal sustainability, and ensuring financial accountability and transparency to the public.

NOW, THEREFORE, the City Council of the City of Bell does hereby find and resolve as follows:

SECTION 1: The City shall adopt the following Action Plan as a means for restoring fiscal sustainability to the City:

Issues and Action Plan Principles

Issue No. 1 – Transparency:

The City's labor and employment program should strive for complete transparency in accordance with all applicable legal standards. Salary and other elements of compensation paid to public employees and officials should be organized in an understandable form and made accessible to the public. Agreements should not contain embedded or other hidden costs that are difficult for citizens to understand. Economic packages should be subject to a rigorous cost analysis, with the City certifying that future costs are affordable and reasonable.

Action Plan Principle No. 1: The City shall not permit individual contracts with any employee other than the Chief Administrative Officer. The complete salary and benefit packages of all City employees (other than those represented by a recognized labor organization) shall be contained in a salary and benefit resolution that is publicly adopted by the City Council on an annual basis in accordance with all applicable requirements of California Government Code Section 54950, *et seq.*, the Ralph M. Brown Act. No compensation or benefit increases are permissible unless they are formally adopted by the City Council in public pursuant to the principles and procedures outlined in this Resolution.

Action Plan Principle No. 2: Except as otherwise required by law (for example, with respect to confidential medical and BEO files), all labor, employment and benefit resolutions applicable to City employees shall be maintained in a centralized and secure location, and made publicly available. As soon as economically feasible, the City shall make all employment and benefit resolutions available on its web site.

Action Plan Principle No. 3: Before approving any resolution or other instrument that contains compensation or benefit obligations, the City shall ensure that all compensation packages are fully, accurately and simply "costed" out, with total costs displayed to the public so that city residents and interested persons can understand and evaluate the pay at issue.

Action Plan Principle No. 4: Any instrument containing any cost obligations shall be publicized, with the words capitalized "(COST OBLIGATION)" specified in the title, and made available to the public with reasonable time for review, consistent with the provisions of the Brown Act and the California Public Records Act (Government Code §§ 6250, *et seq.*).

Action Plan Principle No. 5: No "side agreements," "informal understandings," or past practices shall be binding on the City unless the agreement or practice is approved in public by the City Council in a manner consistent with this Resolution and applicable law. New labor agreements shall supersede all previous agreements and practices, and shall not contain language preserving previous agreements or practices.

Issue No. 2 – City Records:

The City’s Municipal Code, ordinances and resolutions are not easily accessible, and are not indexed. The City’s Municipal Code has not been codified since September 2003, making it difficult to access and understand all of the City’s current ordinances and legal enactments.

Action Plan Principle No. 6: The City shall take immediate steps to audit, update and organize its municipal code, ordinances, resolutions, personnel rules, salary plan and other legal enactments, such that the City’s laws are reasonable and conform to “best practices” on behalf of the citizens of Bell.

Issue No. 3– Compensation and Benefits:

The City’s compensation and benefit packages have been criticized as excessive and unfair.

Action Plan Principle No. 7: The City shall audit all compensation and benefit packages applicable to City employees, and compare the packages to a survey of those provided by other, comparable public agencies. A “comparable” agency is one that shares similar demographics, population, budget and geography to the City of Bell.

Action Plan Principle No. 8: The City shall take immediate steps to reverse pay and benefit packages that were not properly authorized, or are unreasonable.

Issue No. 4 – Police Department’s Memorandum of Understanding:

The memorandum of understanding (“MOU”) covering sworn officers in the City’s Police Department is open for negotiation.

Action Plan Principle No. 9: The City shall continue to engage in good faith negotiations, pursuant to the Meyers-Milias-Brown Act, to ensure that all wage and benefit packages applicable to police employees are reasonable, affordable and consistent with the principles in this resolution.

Issue No. 5 – City Departments:

The City currently operates with the following departments: Administration, Community Services, Public Works, and Police. The City has the opportunity to remake its government to address its current financial needs. While the City’s goal is to ensure a thriving, livable community, it is imperative to balance the City’s fiscal crisis with the need to provide core services to its residents.

Action Plan Principle No. 10: At this time, it is advisable to cut non-essential services in each of the City’s departments. Further, the City should evaluate each of its departments and focus on core services.

Issue No. 6 – City’s Credit Rating

In August 2010, the City’s credit rating was downgraded due to an anticipated inability to pay off \$35 million in debt from its 2005 issuance of lease revenue bonds.

Action Plan Principle No. 11: An additional component of restoring financial stability is repairing the City’s credit. The City relies on credit to finance capital improvements and infrastructure projects, which in turn enhance the City and attract new businesses and increase the

City's tax base. The City must work to reconcile its general fund to avoid further damage to its already beleaguered credit rating.

SECTION 2: The Interim Chief Administrative Officer is authorized to take whatever lawful steps are necessary to effectuate this resolution, and the Interim Chief Administrative Officer, the Director of Administrative Services and the City Treasurer are hereby authorized to execute all necessary documents.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Bell at a regular meeting held on the 27th day of January, 2011.

Oscar Hernandez, Mayor

ATTEST:

Rebecca Valdez, City Clerk

I, Rebecca Valdez, CMC, City Clerk of the City of Bell, do hereby certify that the above Resolution No. 2011-01 was duly adopted by the City Council of the City of Bell at a regular meeting thereof, held on the 27th day of January, 2011, and the same was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Rebecca Valdez, CMC
CITY CLERK

1514300.2
1580593.3

RESOLUTION NO. 2011-02

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL TERMINATING CERTAIN POST EMPLOYMENT BENEFITS IN AN EFFORT TO RESTORE FISCAL SUSTAINABILITY TO THE CITY

WHEREAS, the City Council wishes to restore fiscal sustainability, integrity and transparency to the City of Bell; and

WHEREAS, based on the calculations of the Los Angeles County Auditor-Controller's Office, the City currently faces a minimum budget deficit of \$2.16 million for the current fiscal year; and

WHEREAS, for years, employee salaries were unilaterally established by the former Chief Administrative Officer, and were not justified based on payment for like services in similar jurisdictions; and

WHEREAS, expenditures for employee compensation (excluding the City's Police Department) currently amount to \$3,622,187.00, which equals approximately thirty percent (30%) of the City's general fund; and

WHEREAS, the City's Police Department operates at a cost of approximately \$8.47 million annually, which is \$2.0 million more than the City's expenditures for all other government operations; and

WHEREAS, the City currently contributes both the entire employee and employer contributions for retirement benefits through CalPERS at an estimated annual cost of \$1,495,166.60, and the City makes the entire contribution to employees' supplemental retirement plans; and

WHEREAS, the City's pay and benefit structure is currently unsustainable; and

WHEREAS, without immediate, corrective actions, the City will likely become fiscally insolvent.

NOW, THEREFORE, the City Council of the City of Bell does hereby find and resolve as follows:

1. To the fullest extent permissible by law, and except as provided below, all post-employment benefit plans funded by the City shall be terminated effective immediately. Post-employment benefit plans include, without limitation, the supplemental retirement program.
2. This resolution shall not apply to the City's basic retirement benefits provided through CalPERS. With respect to the basic CalPERS benefit plan, the City shall re-negotiate and take any other appropriate steps with CalPERS to enact lawful cost savings measures available with respect to the existing plan.
3. With respect to prospective "local miscellaneous" employees (non-public safety employees), the City shall enact a Tier 2 benefit program, to reform the benefit structure to a "2% at 55" plan, with final compensation premised on the average of the last three years of

employment. Further, the City will not make any "employee contribution" to CalPERS for prospective "local miscellaneous" employees.

4. The City may reduce active employee salary and benefit costs across-the-board by up to twenty percent (20%). The specific items for reduction are left to the Chief Administrative Officer ("CAO") to implement; provided, however, that the CAO shall report back to the City Council within 21 days after the effective date of this Resolution. The report shall fully outline all compensation reductions made in compliance with this resolution.

5. This resolution shall not apply to any wages, retirement or other post-employment benefits ("OPEBs") that are made available pursuant to a properly adopted memorandum of understanding, and which are subject to negotiation pursuant to the Meyers-Milias-Brown Act ("MMBA"). With respect to such wages, retirement and OPEBs, the City shall negotiate in good faith with recognized labor organizations in an effort to achieve concessions that will foster long term fiscal sustainability, and consistent with reductions affecting other employees.

6. The Interim Chief Administrative Officer is authorized to take whatever lawful steps are necessary to effectuate this resolution, and the Interim Chief Administrative Officer, the Director of Administrative Services and the City Treasurer are hereby authorized to execute all necessary documents.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Bell at a regular meeting held on the 27th day of January, 2011.

Oscar Hernandez, Mayor

ATTEST:

Rebecca Valdez, City Clerk

Resolution No. 2011-02 was duly adopted by the City Council of the City of Bell at a regular meeting thereof, held on the 27th day of January, 2011, and the same was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Rebecca Valdez, CMC
CITY CLERK

1580605.2



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-3873
PHONE: (213) 974-8301 FAX: (213) 626-5427

WENDY L. WATANABE
AUDITOR-CONTROLLER

MARIA M. OMS
CHIEF DEPUTY

ASST. AUDITOR-CONTROLLERS

ROBERT A. DAVIS
JOHN NAIMO
JUDI E. THOMAS

January 6, 2011

TO: Supervisor Michael D. Antonovich, Mayor
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

FROM: Wendy L. Watanabe
Auditor-Controller

SUBJECT: CITY OF BELL FINANCIAL CONDITION REVIEW

On October 19, 2010, your Board instructed the Auditor-Controller to conduct a comprehensive review of the financial condition of the City of Bell (Bell or City). The request was based on issues raised by the media regarding City salaries, and the State Controller's findings of "serious and pervasive" deficiencies in the City's administrative and accounting controls. Your Board instructed us to report back on whether Bell has the resources needed to provide core public services, including a review of revenues, expenses, cash, bonds and other obligations.

This is our report on Bell's financial condition. Our review indicates that the City's projected General Fund expenses will exceed its projected revenue, resulting in a deficit of approximately \$2.16 million, 14.5% of the City's General Fund expenditures, a year. However, if the City reduces its programs to only provide general government, public safety and public works, and eliminates its Community Services program, or achieves other equivalent savings, it is projected to have a deficit of approximately \$424,000, or approximately 3.3% of the City's projected General Fund expenditures. The City will also have to pay approximately \$1.26 million in one-time extraordinary expenses. These extraordinary expense may be partially paid with approximately \$350,000 in one-time revenue the City is expected to receive this year.

The following is a detailed description of the City's projected General Fund revenues and expenses:

CITY OF BELL
GENERAL FUND
ESTIMATED REVENUE AND EXPENDITURES

REVENUE:	ALL CURRENT SERVICES	CORE SERVICES
PROPERTY TAXES	\$ 2,230,629	\$ 2,230,629
OTHER TAXES	4,736,302	4,736,302
LICENSES & PERMITS	576,006	576,006
FINES, FORFEITURES & PENALTIES	702,500	702,500
REVENUE FROM MONEY & PROPERTY	870,500	870,500
REVENUE FROM OTHER AGENCIES	3,052,400	3,052,400
CHARGES FOR CURRENT SERVICES	366,450	366,450
COMMUNITY SERVICES	205,100	-
OTHER REVENUE	10,000	10,000
TOTAL REVENUE	\$ 12,749,887	\$ 12,544,787
EXPENDITURES:		
GENERAL GOVERNMENT:		
SALARIES & EMPLOYEE BENEFITS ¹ <i>(15 Full-time and 5 FTE² Part-time Employees)</i>	\$ 1,886,191	\$ 1,886,191
SERVICES & SUPPLIES	1,872,942	1,872,942
GENERAL GOVERNMENT TOTAL	3,759,133	3,759,133
PUBLIC SAFETY:		
SALARIES & EMPLOYEE BENEFITS (Sworn) <i>(33 Full-time)</i>	5,924,612	5,924,612
SALARIES & EMPLOYEE BENEFITS (Non-Sworn) <i>(12 Full-time and 1 FTE Part-time Employees)</i>	1,249,910	1,249,910
SERVICES & SUPPLIES	1,297,016	1,297,016
PUBLIC SAFETY TOTAL	8,471,538	8,471,538
COMMUNITY SERVICES:		
SALARIES & EMPLOYEE BENEFITS <i>(5 Full-time and 32 FTE Part-time Employees)</i>	1,513,570	-

SERVICES & SUPPLIES	525,554	102,189
COMMUNITY SERVICES TOTAL	2,039,124	102,189
PUBLIC WORKS:		
SALARIES & EMPLOYEE BENEFITS <i>(3 Full-time and 0 FTE Part-time Employees)</i>	222,426	222,426
SERVICES & SUPPLIES	413,341	413,341
PUBLIC WORKS TOTAL	635,767	635,767
TOTAL EXPENDITURES	\$ 14,905,562	\$ 12,968,627
DEFICIT	\$ (2,155,675)	\$ (423,840)

¹ Includes five City Council Members at a total annual cost of \$70,789.

² Part-time employees were converted to Full-time Equivalents (FTE)

It should be noted that, as discussed later in this report, the City faces some significant uncertainties (e.g., future business license fee collections, future CALPERS pension obligations, and a number of potential legal claims and fees). These uncertainties could have a significant impact on the City's financial status and its ability to provide even core services to its residents.

Our analysis is based on reviewing the City's revenues and expenses for the last three years, and current revenue collections. We then met with available Bell fiscal staff to identify areas where the City's revenues and expenses may have been inappropriately over or under the "normal" amounts, or charged to incorrect funds. For example, we reduced the City's projected business license fees because of claims that businesses may have been required to pay higher than appropriate fees in the past. We then revised the revenues and expenses to estimate the amounts that may be realized/incurred in the future.

It should be noted that, because of the fiscal practices of the City's prior management and limited fiscal staff, our estimates are based on some significant assumptions about the City's revenues and expenses. As a result, the City's actual revenue and expense could be substantially higher or lower than our estimates. In addition, as discussed later, the City has some extraordinary expenses, and faces some potential liabilities and other issues that could significantly affect its financial viability.

Salary Changes

Our estimates eliminated the high salaries paid under the prior administration. For example:

	<u>Prior Base Salaries</u>	<u>New Base Salaries</u>
City Manager	\$ 703,000	\$ 250,000
Assistant City Manager	\$ 343,000	Position Eliminated
Police Chief	\$ 457,000	\$ 200,000
Director of Admin. Services	\$ 231,000	\$ 160,000
Council Members	\$ 97,000	\$ 8,100

NOTE: Includes only base salaries. Employee benefits and other related payouts are excluded.

It should be noted that the City's total General Fund salaries and employee benefits in our estimates are higher than the prior year amounts, even though the City is eliminating some excessive salaries (e.g., the prior City manager's salary). This is because some of the prior high salaries and employee benefits were recorded under other City funds, not in the General Fund, and because the City had incorrectly recorded its employee benefit costs in prior years. For example, some of the former City manager and assistant City manager's salary and employee benefits were charged to another fund. After the proper realignment, eliminating the high salaries does not reduce the total projected General Fund expenses significantly.

The projected salaries used in our estimates were discussed with the current contract City management. Some of the amounts may be higher than actually needed to fill the positions (e.g., \$250,000 for a city manager). However, we used those estimates to be conservative and ensure we did not understate the City's future costs.

Extraordinary Expenses and Revenues

As noted earlier, our analysis is based on the City's projected ongoing General Fund revenues and expenses. Our analysis does not include some significant extraordinary expenses the City is currently incurring. For example, Bell's current legal expenses are significantly more than they would normally incur. These extraordinary expenses, which are continuing to be incurred, are projected to total approximately \$1.26 million for the year ending June 30, 2011. We excluded these expenses from our projections because they are expected to be one-time costs. However, the City will have to pay these expenses.

The City may be able to pay part of the extraordinary expenses with one-time revenue the City has or is expected to receive this year. Specifically, the City is attempting to

collect \$350,000 from the City of Maywood for administrative assistance Bell provided to Maywood. If Bell collects all \$350,000 of this one-time revenue and applies it to its extraordinary expenses, it will still have approximately \$910,000 (\$1.26 million - \$350,000) in extraordinary expenses that will have to be paid.

Other Uncertainties

Bell also has to address a number of potential costs and claims that may affect its cash flow and its ability to pay its expenses. For example:

- The City faces allegations that it impounded vehicles improperly to increase impound fees, and overcharged for business license fees and other revenues in the past. If the City has to repay any prior collections from its General Fund, it will reduce the City's available resources and may affect the City's ability to continue to provide public services.
- The City has made retirement contributions for pensions based on high salaries paid to some prior City managers, elected officials and other employees. However, the California Public Employees Retirement System (CALPERS) has indicated that a substantial portion of these higher pensions may not be paid. This area will probably be the subject of legal challenges by the City, questioning the legality of the higher pensions, and by the prior officials, who will claim they are entitled to the higher amounts. If the higher pensions are not paid, the City may be entitled to a reduction in future pension costs. The impact on the City will not be known until the conclusion of the legal process.
- The City's prior attorney claims the City owes him approximately \$300,000 in legal fees. Bell management also indicated the City owes an additional \$150,000 to another attorney. Again, if the City has to pay these fees, it may affect the City's ability to provide services.

Because the impact these issues will have on the City's General Fund are unclear, we did not include these issues in our estimates.

General Fund Cash Balance and Cost Reductions

One of the resources government jurisdictions use to address operating deficits and/or extraordinary expenses is their available cash balance. The City of Bell has not reconciled their cash account in approximately six months. However, City management estimates the General Fund's cash balance to be approximately \$300,000 as of December 13, 2010. If the City applies its available \$300,000 cash balance to the estimated \$2.16 million operating deficit, it will still have a \$1.86 million deficit, plus the remaining balance of \$910,000 in extraordinary expenses discussed earlier, resulting a total of \$2.77 million (\$1.86 million + \$910,000) in unfunded costs.

Given the uncertainties facing the City, it seems unlikely that the City would be able to address its unfunded costs by raising taxes or borrowing. As a result, the City may be forced to reduce its programs or its costs to pay the \$2.77 million. The City can reduce its expenses by reducing salaries and employee benefits, and/or services and supplies by across-the-board reductions, or reducing specific expenses. The City may also be able to reduce its cost by cutting back on some non-core services. Eliminating the Community Services program would save the City approximately \$1.73 million. In addition, the City may be able to reduce its cost by contracting for some services.

Bonds and Related Debt

As discussed earlier, our review was intended to evaluate whether the City's General Fund has the resources to provide core public services. However, we also completed a limited review of the City's bonds (attachment).

We thank the staff at the City of Bell for their cooperation and assistance in our review. Please call me if you have any questions, or your staff may call Jim Schneiderman at (213) 253-0101.

WLW:MMO:JLS
Attachment

c: Oscar Hernandez, Mayor, City of Bell
Pedro Carillo, Interim City Manager, City of Bell
Jamie Casso, Interim City Attorney, City of Bell
William T Fujioka, Chief Executive Officer
Sachi A. Hamai, Executive Officer Board of Supervisors
Audit Committee

CITY OF BELL: BONDS AND RELATED DEBT	ISSUED AMOUNT	PURPOSE	REMAINING PROCEEDS	DEBT SERVICE FY 2010-2011	EST. PLEDGED REVENUE FY 2010-2011	PLEDGED REVENUE SOURCE
GENERAL OBLIGATION BONDS (SERIES 2004)	\$ 15,000,000	Improve the sports complex, community center, and other recreational facilities. Bond proceeds were also supposed to be used to build a new library, theater, and other City facilities.	\$ -	\$ 1,018,619	\$ 1,729,900	DEBT SERVICE TAX (1)
GENERAL OBLIGATION BONDS (SERIES 2007)	\$ 35,000,000		\$ 23,000,000	\$ 1,718,250	\$ -	DEBT SERVICE TAX (1)
BELL PUBLIC FINANCING AUTHORITY:						
CERTIFICATES OF PARTICIPATION	\$ 3,020,000	Improve City streets and renovate two ballfields.	\$ -	\$ 210,398	\$ 2,717,200	UTILITY USERS TAXES (5)
TAXABLE PENSION REVENUE BONDS	\$ 9,225,000	Fund the City's unfunded pension liability for safety employees and pay off an older bond that was issued for the same purpose.	\$ -	\$ 895,379	\$ 2,620,408	RETIREMENT TAX (5)
TAXABLE LEASE REVENUE BONDS	\$ 35,000,000	Pay off debt that was issued to purchase property from the United States General Services Administration. Bond proceeds were also supposed to be used to develop the property.	\$ -	\$ 35,619,500	\$ -	LEASE REVENUE (2)
BELL COMMUNITY REDEVELOPMENT AGENCY:						
TAX ALLOCATION REFUNDING BONDS	\$ 27,925,000	Fund redevelopment projects and pay off an older bond that was issued for the same purpose. Bond proceeds were also supposed to be used to fund other projects that benefit low and moderate income housing.	\$ -	\$ 2,025,368	\$ 2,662,018	TAX INCREMENT (4)
PROMISSORY NOTE	\$ 4,660,000	Acquire property (former Western Auto).	\$ -	\$ 465,809	\$ -	NONE (3)
BELL COMMUNITY HOUSING AUTHORITY:						
LEASE REVENUE REFUNDING BONDS	\$ 20,790,000	Acquire, construct, and rehabilitate rental housing properties, and pay off an older bond that was issued to acquire mobile home parks.	\$ 798,200	\$ 1,253,821	\$ 1,404,400	VARIOUS SOURCES (4)

NOTES:

- (1) The City has issued two General Obligation bonds (\$15 million in 2004 and \$35 million in 2007). In accordance with these voter approved bonds, the City levies a tax to pay the debt service costs of the 2004 bonds. The amount received from taxes is more than the debt service costs. The City uses the excess to repay the General Fund for the debt services costs it incurred before the taxes were levied (fiscal years 2004-05 through 2008-09). However, the City has not increased the tax to pay for the 2007 bonds, and is using bond proceeds to pay for the debt service costs. It appears that the City will likely have to increase the tax to pay for the debt service costs at some point in the future.
- (2) The City's Public Financing Authority (PFA) issued \$35 million in bonds to pay off an older note and develop real property for leasing. The note was issued to acquire the property from the United States General Services Administration. The PFA planned to use the lease revenue to pay interest until the bond matured. The PFA would then pay off the principal at maturity by issuing a new bond with a longer term, and pay all subsequent debt service costs (principal and interest) with lease revenue.
- (3) However, the property has not been leased, and the PFA has not made the last two interest payments or the \$35 million principal payment that was due in November 2010. The City is currently negotiating with the bond holders. It is unclear how this issue will be resolved, and what impact this will have on the City's General Fund.
- (4) The Bell Community Redevelopment Agency (CRA) issued a \$4.6 million promissory note. The CRA pays the debt service costs using any additional tax increment revenue left over after paying Tax Allocation Refunding Bond debt service costs. The tax increment is a tax on the incremental increase in the assessed value of property located within the redevelopment project area from the assessed value in the base year.
- (5) Pledged revenue sources include net operating revenue from the Bell Mobilehome Park, Florence Village, Deb's Field, and Clubhouse at Veterans Park.
- (6) The excess of pledged revenue over debt service costs is included in our General Fund revenue estimates.

CITY OF BELL

Audit Report

ADMINISTRATIVE AND INTERNAL ACCOUNTING CONTROLS

July 1, 2008, through June 30, 2010



JOHN CHIANG
California State Controller

September 2010



JOHN CHIANG
California State Controller

September 22, 2010

Pedro Carrillo
Interim City Administrator
City of Bell
6330 Pine Avenue
Bell, CA 90201

Dear Mr. Carrillo:

Enclosed is the report of the State Controller's Office audit of the City of Bell's administrative and internal accounting controls system. The audit was conducted at your request for an assessment of the adequacy of the city's controls to safeguard public assets and to ensure proper use of public funds.

Our audit found that, because the control deficiencies were so serious and pervasive, the City of Bell's internal control system was virtually non-existent. All of the city's financial activities and transactions evolved around one individual—the former Chief Administrative Officer (CAO)—who for all intents and purposes had complete control and discretion over how city funds were to be used. There is no evidence of any oversight by members of the Bell City Council, most of whom received additional compensation and/or loans as a result of actions authorized by the CAO. Under this environment, the potential for waste, fraud, abuse, and misappropriation of public funds is extremely high.

Based on a review of a very limited sample of transactions, we identified the following conditions that suggest possible intentional abuse and misuse of city funds (Finding 1):

- The Bell City Council approved exorbitant salary and benefits for the former CAO without any accountability for performance. The former CAO continued this process by allowing enormous salaries for other chief administrative staff.
- More than \$93,000 in city funds was used to repay the former CAO's personal loans, apparently without any authorization or justification of public benefit, which constitutes a gift of public funds.
- Approximately \$1.5 million in loans were made to members of the Bell City Council, city officials, and city employees at the sole discretion of the former CAO and without any justification of public benefit, which again constitutes a gift of public funds.

- Payments were made to a contractor, who was also acting as the city's "Director of Planning Services." Payments continued even after the contract had expired in June 1997. The contractor also charged the city a 10% administrative fee (profit) for any subcontractor he hired, which raised questions about conflict-of-interest with his role of the Director of Planning Services. Total payment to two firms owned by the contractor was in excess of \$10.4 million from January 1995 through June 2010. In effect, the Director oversaw many subcontractors of the city, each garnering him a 10% administrative fee (profit).
- The city in May 2009 purchased real property for \$4.8 million from a trust established by a former Bell mayor who paid \$480,000 for it in 1981. There was no documentation available to show what the property was to be used for, how the property was selected, and cost analyses to justify the purchase amount. The store on the acquired site has been vacated and there has not been any activity on this site.

In addition, we found the city mismanaged its voter-approved Measure A bond funds (Finding 2) as follows:

- The city issued \$50 million in general obligation bonds for Measure A without any documented plan and timeframe to utilize the proceeds and apparent need for the funds.
- The 2007 series of bond proceeds of \$35 million had the former CAO assume the role of fiscal agent. As such he had total control and discretion over how bond funds were to be used. As of August 31, 2010, approximately \$11.5 million of the \$35 million had been spent. Given the questionable practices of the former CAO identified in other sections of this report, the risk for improper use of bond funds is very high.
- The amount of 2007 series of bond issuance (\$35 million) was far in excess of the amount that was needed and thus unnecessarily increased the city's costs of borrowing. In addition, the surplus funds inexplicably were deposited in a non-interest-bearing checking account which, assuming an interest factor of 2% per annum, resulted in interest losses of approximately \$1.7 million as of August 31, 2010.
- Rather than depositing increased property tax proceeds in a separate Debt Service Trust Account as specified in the city's paying agent agreement with the U.S. Bank National Association, the funds were deposited in the General Fund, which artificially inflated the General Fund cash balance. Under the former CAO's employment agreement with the city, his salary increases were contingent on a positive cash position in the General Fund. Again, at least in appearance, this practice could be self-serving.

We also found the Bell City Council exceeded its authority in increasing assessments and taxes without voter approval (Finding 3). Specifically, we found that:

- The Bell City Council improperly increased the assessment of the Sanitation and Sewerage System District without voter approval. The estimated amount of overcharge is \$621,737 for FY 2007-08 through FY 2009-10.

- The city improperly used \$1,143,618 in funds from four assessment districts (Sanitation and Sewerage System, Refuse Collection, Recycling and Integrated Waste Management, and Landscape and Lighting) to pay for portions of payments to the former CAO and the Assistant CAO for regular and holiday pay, and pay in lieu of vacation. The California Constitution stipulates that charges against assessment districts must be directly related to services provided to the districts.
- Other unauthorized increases in pension assessment and business license taxes have had the effect of reducing General Fund pension obligations or enhancing General Fund revenues, which in turn provided greater flexibility to increase compensation. At least in appearance, this raised the question of whether the decisions to increase assessments and taxes were motivated by personal gain considerations. The amount of the unallowable pension assessment is \$2,934,144 for FY 2007-08 through FY 2009-10. The estimated overcharge to the business license taxes is \$2,105,441 for calendar years 2000 through 2010.

We recommend the City of Bell takes immediate action to institute a system of business policies, processes and procedures that will provide proper checks and balances over public assets and public funds. The city should take other measures to refund unallowable excess amounts of assessments and taxes collected and, to the extent possible, recoup any inappropriate payments or loans. Furthermore, the Director of Planning Services should be a city employee to avoid conflict of interest and save the city money. In addition, as certain matters disclosed in this report suggest possible intentional misuse of public funds that may involve collusive practices, we will provide copies of this report to all appropriate law enforcement agencies for consideration of additional investigation and possible legal action.

The above findings were discussed with the City of Bell management during an audit exit conference on September 16, 2010. In its response, included as Attachment E of this report, the city did not dispute any of the findings contained in this report but offered legal theories suggesting that at least some of the increases in the Sanitation and Sewerage assessments and business license taxes were justifiable and that these matters require further legal review. These are legal issues that the city ultimately must address with the citizens or the businesses that paid the higher assessments and taxes.

If you have any questions, please contact Jeffrey V. Brownfield, Chief, Division of Audits, at (916) 324-1696.

Sincerely,

Original signed by:

JOHN CHIANG
California State Controller

cc: The Honorable Edmund G. Brown, California Attorney General
The Honorable Steve Cooley, Los Angeles County District Attorney
Andre Birotte Jr., U.S. Attorney, Central District of California

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Audit Report

Introduction

The State Controller's Office (SCO) audited the City of Bell's system of administrative and internal accounting controls for the period of July 1, 2008, through June 30, 2010. On July 28, 2010, the newly appointed interim Chief Administrative Officer (CAO) of the City of Bell made a request with the State Controller to perform an audit of the city to address numerous disclosures made in the news media suggesting possible misuse of public funds by senior management staff. In response, the State Controller agreed to perform an audit of the city's system of internal controls, property and business license tax revenues, and state and federal funding.

This report presents the results of findings and conclusions reached in the SCO audit of the city's administrative and internal accounting controls system.

Separate reports will be issued for our audits of the Special Gas Tax Street Improvement Fund, City of Bell's Redevelopment Agency, and other state and federal funding at a later date. In addition, we have issued letters concerning the City of Bell's Pension Assessment Fund (Attachment A), the Sanitation and Sewerage System District Assessment Fund (Attachment B), and the Business License Taxes (Attachment C).

Background

The City of Bell is located in Los Angeles County, California. The population was 36,664 in the 2000 census; at 2.5 square miles, it is 13th among the 25 geographically smallest cities in the United States with population of at least 25,000.

City residents voted to become a charter city in a special municipal election on November 29, 2005. Fewer than 400 residents, representing approximately 1.1% of the city's total population turned out for the special election. The charter provided more autonomy to city management and exempted the city from needing to follow state contracting procedures or complying with a state law that limits council members' salaries.

The Los Angeles Times was the first to break a story of the City of Bell in July 2010. A series of articles revealed that some City of Bell administrators and council members were receiving disproportionately high salaries.

Many Bell citizens became outraged and called for the suspension of the salaries of these officials and later the resignation of several council and staff members. On July 23, 2010, the administrative officers resigned their positions with the city, while the Mayor and the City Council continued to govern the city.

On July 24, 2010, the City Council hired (contracted) the Chief Executive Officer (CEO) of a consulting firm the city was paying for other services to be the interim CAO of the city.

One of the first actions taken by the newly-appointed interim CAO was to request an audit of the City of Bell. In response to this request, the SCO agreed to perform an audit to assess whether the city has had adequate administrative and internal accounting controls to ensure proper accountability over use of public funds and assets.

Objectives, Scope, and Methodology

The objective of this performance audit was to evaluate the City of Bell's system of administrative and internal accounting controls to ensure:

- Effectiveness and efficiency of operations;
- Reliability of financial reporting;
- Compliance with applicable laws and regulations; and
- Adequate safeguard of public resources.

During our audit, we became aware of poorly designed and ineffective controls. Although the scope of our internal control review was city-wide, our audit focused on areas that we believed to have the greatest risk to city operations. These areas included budgets, payroll, expenditures, contracting, property and business license tax revenues, and the city's general obligation bonds.

To accomplish our audit objective, we performed the following audit procedures:

- Evaluated the city's formal written internal policies and procedures.
- Reviewed the independent auditor's working papers for the audit of the city's financial statements for Fiscal Year (FY) 2007-08 and FY 2008-09.
- Conducted interviews with city employees and observed the city's business operations for the purpose of evaluating city-wide administrative and internal accounting controls.
- Reviewed the city's documentation and supporting financial records.
- On a limited basis, performed test of transactions to ensure adherence with prescribed policies and procedures and to validate and test the effectiveness of controls.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Conclusion

We found the City of Bell's administrative and internal accounting control system to be, in effect, non-existent as all financial activities and transactions evolved around one individual—the former Chief Administrative Officer (CAO)—who apparently had complete control and discretion over how city funds were to be used. Evidence suggests that the former CAO used public funds for personal gains. Members of the City Council, most of whom received additional compensation and/or loans as a result of action authorized by the former CAO, have never questioned or rejected any of the former CAO's requests or proposals. Under this environment, the potential for waste, fraud, abuse, and misappropriation of public funds is extremely high.

We also found the city, under the direction of the former CAO, mismanaged its voter-approved Measure A bond funds, which resulted in its citizens absorbing millions of dollars in unnecessary interest charges or losses in interest income.

In addition, we found the Bell City Council approved increased assessments/taxes without voter approval. A significant portion of the increased assessments/taxes was used to increase the compensation of two of the city's senior management staff members.

Views of Responsible Officials

The SCO conducted an exit conference on September 16, 2010, at which a draft report dated September 16, 2010, was presented. The auditee was informed that any responses should be made by September 20, 2010, at 5:00 p.m. Pedro Carrillo, Interim Chief Administrative Officer of the City of Bell, e-mailed a response on September 20, 2010, that failed to specifically agree or disagree on Finding 1 and Finding 2, and gave comments to parts of Finding 3 (see Attachment E).

The SCO has made specific comments in regards to the issues commented on by the city (see Attachment F).

Restricted Use

This report is solely for the information and use of the City of Bell and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

September 22, 2010

Findings and Recommendations

FINDING 1—
The SCO identified significant control deficiencies in virtually every aspect of the city's fiscal functions. Under the current system, the potential for waste, fraud, abuse, and misappropriation of public funds is extremely high.

The State Controller's Office (SCO) made an assessment of the city's fiscal functions using standards adopted by the American Institute of Certified Public Accountants and the auditing profession that prescribe essential elements for a sound administrative and internal accounting controls system. In general, internal control encompasses a system of checks and balances designed to safeguard the entity's assets and to reduce the possibilities of intentional and/or unintentional errors. Examples of internal control include sound policies and procedures, a system of authorization and approval, clearly defined responsibilities, and separation of duties in relation to operations and custody of assets.

The results of our internal control assessment are presented in a matrix as Appendix 1 of this report. In essence, we found the city's system of internal control to be non-existent as all financial activities and transactions evolved around one individual, the former Chief Administrative Officer (CAO), who had complete control and discretion over how city funds were used. For example, the former CAO could approve any purchase transaction of \$50,000 or less, and transactions of more than \$50,000 were to be reviewed and approved by the members of the Bell City Council, most of whom received additional compensation and/or loans as a result of actions authorized by the former CAO. A review of the Bell City Council meeting minutes found all of the requests were approved by the City Council members with little or no question or deliberation. As disclosed in later parts of this finding, evidence suggests that the former CAO may have used public funds for personal gain. Under an environment of weak controls and questionable ethics, the potential for waste, fraud, abuse, and misappropriation of public funds is extremely high.

As a part of our assessment, we selected a limited number of transactions to validate and test the effectiveness of internal controls. Our review identified a number of instances where questions exist as to whether payments for goods or services were necessary, reasonable, and legal. It is highly probable that the conditions identified in our limited sample are pervasive throughout the city's system. Specifically, we identified the following conditions:

- **The Bell City Council approved raises for the CAO without any accountability for performance. The CAO continued this process by allowing enormous salaries for other top administrative staff.**

Our audit disclosed that the City Council minutes did not contain any detailed discussion or fiscal analysis of the CAO salary increases as the CAO's salary and compensation package continued to grow after his hiring. In 1993, his salary was \$72,000 per year and by the time he resigned in 2010, his employment contract, effective July 1, 2010, had his salary top out at \$787,000 per year. In addition, we could not determine any accountability for his performance. Many of his employment contracts required annual performance evaluations; however, our audit did not disclose any such evaluations.

In addition, our audit disclosed that the CAO authorized disproportionate salary and benefit package increases for top city administrators. The City Charter allows the CAO to appoint, promote, demote, suspend or remove, all department heads, officers and employees, except elected officials and those department heads, officers and employees the power to whose appointment is vested by the City Charter. Our audit did not disclose any annual performance evaluations as required by many of these employment contracts or any detailed discussion or fiscal analysis of compensation increases in the City Council minutes or personnel files.

The result was a significant increase in payroll for top city administrators. By FY 2009-10, the city expended \$2,391,544 in salaries and \$3,385,783 in compensation for six top city administrators, City Council members, and the mayor (see Appendix 2 for a list of staff members and their salary and compensation).

- **Public funds were used to repay the former CAO's personal loans, apparently without authorization.**

For the pay periods ended July 6, 2008, and August 16, 2009, the city's payroll registers indicated that the former CAO's earnings included "Miscellaneous" items in the amounts of \$47,563.09 and \$45,877.47, respectively. The same payroll registers also contained "Miscellaneous" deductions for the same amounts. Further inquiry disclosed that the former CAO, on April 2, 2004, borrowed \$50,000 each from his 401(a) and 457 retirement savings accounts at an interest rate of 6.875% and 5.8512%, respectively, per annum. Repayment of both loans commenced on May 2, 2004, and was to end on March 12, 2034.

Upon further review, our audit noted the city repaid the two loans on behalf of the former CAO by wire-transferring \$47,875.59 from its payroll account to the ICMA Retirement Corp. on July 14, 2008, and another \$45,877.47 on August 12, 2009. We reviewed the former CAO's employment contract which did not contain any provision authorizing repayment of his personal loans. The Bell City Council's meeting minutes did not contain any entry suggesting that the City Council authorized the repayments or even knew about them. None of the city's administrative or personnel staff could provide any explanation or documentation as to who authorized the repayments. The rationale and basis for the transactions according to the City Treasurer, "was to pay for the CAO's shortage of contribution to his retirement plans."

The above transactions demonstrate the severity of the internal control deficiencies as transactions of this nature and these amounts could be carried out without full justification and documentation. For instance, for Fiscal Year (FY) 2007-08 through FY 2009-10, total compensation of the former CAO increased significantly, in part through the above transactions and other practices (such as payment-in-lieu of vacation and sick leave and contributions to deferred compensation funds) authorized by the City Council through the CAO's employment contract.

The vacation and sick leave buyback practices were extended to other city officials and employees. For FY 2008-09 and FY 2009-10, the city paid a total of \$529,433 in sick leave buybacks and \$1,245,072.45 in vacation buybacks to its officials and employees. Appendix 2 provides a schedule of the compensation (excluding fringe benefits) of the former CAO, the City Council members, and some senior staff members that included sick leave and vacation buybacks.

- **Loans in the form of advances were made to members of the Bell City Council, city officials, and city employees at the discretion of the former CAO. This constituted a gift of public funds.**

The city made loans to City Council members, senior staff members, and employees totaling approximately \$1.5 million from November 2002 through March 2010. In addition, the city loaned another \$300,000 to a business owner in the city. The employee loan amounts ranged from \$1,000 to \$130,000, with senior management staff members receiving the most significant amounts. Four officials—the Assistant CAO, the Director of Administrative Services, the Director of Community Services, and a Deputy Chief of Police—collectively received more than \$690,000 in loans from the city. In addition, three City Council members each received \$20,000 in loans.

We noted that this practice first began in March 2002 when the city executed an addendum to the employment agreement of the former CAO to provide for a loan of \$80,000 to be repaid through his future vacation and sick leave earnings. The addendum language was used as a model for an “administrative agreement” (see Attachment D for an example) between the city and the employees, requiring repayment within a specified period at an interest rate tied to the Local Agency Investment Fund, which as of September 3, 2010, was 0.531%. Our current audit has identified the following concerns:

- There was no ordinance or written policy authorizing this loan practice or prescribing circumstances under which such loans could be authorized. When interviewed, city officials and employees informed the auditors that the loans were made at the sole discretion of the former CAO. This leads to questions about possible favoritism by the former CAO and conflict-of-interest by those individuals (including members of the City Council) who received the loans.
- These loans had no public benefit. As such, they are a gift of public funds. The California Constitution, Article XVI, section 6, prohibits any public agency from making any gift or loan of public money or thing of value to, among other things, any individual. In determining whether there has been an illegal gift of public funds in violation of the Constitution, the primary question is whether funds are used for a “public purpose.” The loans appear to be made for private, rather than public, purposes, and therefore are a gift of public funds.

- The loan amounts apparently were also determined at the sole discretion of the former CAO in absence of policy or guidelines. When interviewed, some city officials and employees stated that they believed the loans were to be based on the employees' accrued vacation and sick leave balances. However, as part-time elected officials, City Council members do not accrue any vacation or sick leave benefits.
 - The "administrative agreements" were in actuality contracts, which, according to the city ordinance, require Bell City Council approval if the amount exceeds \$50,000. There is no evidence that the City Council approved any of the loans.
 - A \$300,000 loan to a business entity in the city apparently was made without any knowledge or consent of the City Council. The loan currently is in default, which raises questions as to whether it constitutes gift of public funds.
- **Payments were made to a contractor, who was also acting as the city's Director of Planning Services. Payments continued even after the contract had expired in June 1997.**

In April 1995, the city contracted with D & J Engineering to "provide engineering services for the development of the plans and specifications for the Curb, Gutter and Sidewalk Improvement Project." The owner of the engineering firm was listed in the city's latest five-year budget plan as the "Director of Planning Services." This individual is not on the city's payroll but has been paid a monthly retainer to perform this role through the contract with the city. In addition, this individual also owns TD Urban Planners which also had a contract with the city.

Under the contract, D & J Engineering was to be paid for the following services:

- Cost of services on a time-and-materials basis not exceeding \$24,500 without prior authorization.
- Direct out-of-pocket expenses as included in the bid proposal based on hourly rates that range from \$35 to \$105 per hour. In addition, the contractor was to be reimbursed at cost plus 10% overhead of prints, research material, and other incidental expenses. It is our understanding D & J Engineering in reality used this 10% above the invoice amount to pay for a subcontractor retained by the firm to work on city projects.

According to its payment history, the city paid D & J Engineering a total of \$10,002,902.97 from January 3, 1995, through June 29, 2010. In addition, the city paid \$430,605.82 to TD Urban Planners from December 5, 2006, through June 28, 2010.

Our audit identified the following concerns:

- The most current D & J Engineering contract on file with the city expired on June 30, 1997. City officials told the auditors they were not aware of any contract extensions or amendments beyond that date. We also inquired with the Director of Planning Services who stated that he was unaware that the contract had expired and that he would see if he has a current contract. To date, he has yet to provide the auditors with a current contract. Unless a current contract is in effect, the city did not have the legal authority to pay for invoices after the contract had expired. Moreover, the relevance and necessity of the scope of work identified in a contract executed more than ten years ago is highly questionable.
- All of the D & J Engineering's invoices we reviewed show they were either approved by the former CAO or by the Assistant CAO on behalf of the former CAO. The invoices do not appear to contain sufficient details for meaningful reviews. For example, each invoice contained billing of \$10,000 for services to the Planning Department and \$10,000 for the Building and Safety Department without identifying what services had been performed. The more than \$10 million in payments made to firms owned by the Director of Planning Services show a high risk for abuse.
- The City Planner should have been acting as an independent city official in overseeing these contracts. However, because he was actually receiving his pay as part of one of the contracts, his independence was compromised.
- **The City of Bell purchased real property from a trust established by a former Bell mayor for \$4.8 million. However, there was no documentation available to show what the property was to be used for, how the property was selected, and cost analyses to justify the purchase amount.**

In May 2009, the city purchased a property located within the City of Bell for \$4.8 million that was owned by a trust established by a former mayor of the city who purchased it for \$480,000 in 1981. According to the purchase agreement, the Bell City Council, acting as the Bell Community Redevelopment Agency made a \$200,000 down payment and the trust financed the remaining \$4.6 million at an annual interest rate of 6% for 15 years at \$38,817.41 in monthly installment payments.

We have reviewed the project file and found inadequate information or documentation for a transaction of this magnitude. For example, the project file contains no documentation regarding what the property was to be used for, how many properties were considered, and how this particular property was selected. The project file includes only one appraisal report. That report shows the property was appraised at \$4.8 million. However, in absence of other cost analyses, the one appraisal report by itself does not appear to be sufficient to justify a transaction of this magnitude.

Most discussions about this purchase occurred during closed sessions of the Bell City Council meeting as the Bell Community Redevelopment Agency. Therefore, we have no basis upon which to assess the necessity or reasonableness of this property acquisition. However, the store on the acquired site has been vacated and there has not been any activity on this site. This matter merits further scrutiny which is beyond the scope of an internal control audit.

**FINDING 2—
The city mismanaged its
voter-approved
Measure A bond funds,
which resulted in its
citizens absorbing
unnecessary interest
charges and/or lost
interest incomes.**

In the November 2003 election, the voters of the City of Bell approved Measure A, authorizing issuance of \$70 million in general obligation bonds. According to the ballot measure, the fund was to be used to “develop the Bell Sports Complex to include a gymnasium for indoor soccer, basketball, cheerleading and the baseball facility; expand the Bell Community center and other parks, recreational and cultural facilities; construct a new full service Bell Community Library, Performing Arts Theatre, public safety and civic facilities.”

To date, the city has issued \$50 million in bonds under Measure A in two series—the first issuance of \$15 million in 2004 and the second bond issuance of \$35 million in 2007. Approximately \$27 million of the bond proceeds had been spent as of August 31, 2010, and approximately \$23.5 million is currently on deposit in a non-interest bearing commercial checking account at Wells Fargo Bank. In addition, approximately \$5.0 million of the \$27 million was used to pay interest on the bonds. Appendix 3 provides a schedule of expenditures incurred as of August 31, 2010, on the various projects. Our review of controls and transactions related to Measure A funds identified the following concerns:

- For the first issuance, the bond proceeds were deposited in an outside account maintained with Citigroup. Thus, expenditures were—at least on a cursory level—subjected to an outside review before they were reimbursed. However, the CAO assumed the role of fiscal agent for the second issuance of \$35 million. The removal of the outside account provided the former CAO with total discretion over how bond funds were to be used. The Director of Administrative Services authorized purchase requisitions for reimbursement of project expenditures from Measure A funds. When questioned, the Director of Administrative Services told the auditors that she had a limited role with bond expenditures as the former CAO “controlled everything.”
- We could not find any plans or documentation identifying what projects were to be funded through Measure A funds, the budget for each project, milestones and timeframes for completion, and periodic assessments of the status of the projects. The election authorizing the bond measure was held in November 2003. However, our review of the City Council meeting minutes noted that the first time the possibility of putting this measure before the public was not discussed until a meeting in June 2003. As a result, there has been little discussion or deliberation of project priorities before or after the election, and funding decisions essentially were deferred to the former CAO who also acted as the fiscal agent for the second issuance of \$35 million in 2007.
- The city did not establish separate accounts in accordance with its paying agent agreement with the U.S. Bank National Association, which maintains trust accounts on behalf of the bondholders. The paying agent agreement specifically requires a Debt Service Account held in trust solely for payment of principal and interest on bonds. The city did not increase property taxes to pay for bond indebtedness until FY 2009-10, but the increased property tax proceeds were deposited in the General Fund instead of a Debt Service Fund, which

inflated the General Fund cash balance. Under the former CAO's employment agreement with the city, his salary increases were contingent on positive cash position in the city's General Fund.

- We could not find the rationale why the city issued a second bond issuance of \$35 million. The total proceeds were deposited in August 2007 in the Wells Fargo checking account. That account still had a cash balance of approximately \$23.5 million as of August 31, 2010. Of the \$11.5 million expended for the 2007 issuance, approximately \$5 million was spent on bond interest, with only \$6.5 million spent on projects. The issuance of bonds exceeding the amount actually needed resulted in the citizens of the city incurring unnecessary interest expenses at approximately 5% annually. The city could have mitigated the interest expenses to some extent by depositing the funds in an interest-bearing account, which is a customary practice for handling bond proceeds. Inexplicably, the \$35 million was deposited in a non-interest-bearing account which resulted in losses of interest income. Assuming an interest factor of 2% per annum, the interest losses would be approximately \$1.7 million as of August 31, 2010.
- There appears to be little activity on the Bell Sports Complex which, according to various city officials, was the primary thrust of Measure A. In six years, it is unclear what has been accomplished except for acquiring a site that consists of a dirt lot with a masonry wall around it and a water pumping station in the middle. We did not find any documentation regarding plans for completion of this project.

FINDING 3—
The city engaged in questionable practices of raising assessments/taxes without voter approval; a significant portion of the increased assessments were used to increase compensation for two of the city's senior management staff members.

The SCO found that the Bell City Council exceeded its legal authority in increasing the direct assessment for the Sanitation and Sewerage System District without obtaining voter approval. A portion of the assessments, along with proceeds from other increases in assessments that the Bell City Council has the legal authority to impose, was used to significantly increase the compensation of the former CAO and the Assistant CAO.

In 2007, the Bell City Council adopted a series of resolutions that, in total, nearly doubled the assessments for the Sanitation and Sewerage System District, the Refuse Collection District, the Recycling and Integrated Waste Management District, and the Landscape and Lighting District starting in Fiscal Year (FY) 2007-08. The increase in rates cumulatively resulted in approximately \$4,742,340—from a total of \$4,957,805 to a total of \$9,700,145—in additional assessments for the four districts for FY 2007-08 through FY 2009-10. These increases coincided with significant increases in the compensation of the former CAO and the Assistant CAO who, collectively, over the same three-year period, received additional compensation totaling \$1,143,618 from the accounts of the four districts. In essence, the city used approximately 24% of the increased assessment funded by the ratepayers for sanitation, refuse, recycling, and lighting services to enhance the compensation of the former CAO and the Assistant CAO. The SCO audit identified the following concerns:

- **The Bell City Council had no legal authority to increase the assessment of the Sanitation and Sewerage System District without voter approval.**

At the request of the auditors, the SCO Legal Office reviewed the resolutions that authorized the increases and opined that the Bell City Council had legal authority to increase the assessment rates for the Refuse Collection District, the Recycling and Integrated Waste Management District, and the Landscape and Lighting District. However, the SCO Legal Counsel concluded that the increase in assessment of the Sanitation and Sewerage System District, referred to in the original authorizing resolution as a “standby” charge, is in violation of the California Constitution, Article XIII D, section 6, subsection (b)(4). That provision stipulates that sewer “standby” charges, be classified as assessments and shall not be imposed without complying with the California Constitution, Article XIII D, section 4, which requires a vote of the property owners who would be affected by the assessment. The estimated amount of charges related to the Sanitation and Sewerage System increase for FY 2007-08 through FY 2009-10 is \$621,737.

In a letter dated September 9, 2010, a law firm representing the city disagreed with our conclusion that the increase was for sewer standby charges and thus required voter approval. Through its legal representative, the city asserted that the amount imposed is a “new” sewer fee that did not require voter approval. We reviewed the rationale and basis for this assertion and find it to be non-persuasive. Thus, our finding remains unchanged. The legal representative’s letter and our response is included as Attachment A.

- **The total of \$1,143,618 used to fund portions of payments to the former CAO and the Assistant CAO for regular and holiday pay, and pay in lieu of vacation was inappropriately charged against four districts for FY 2007-08 through FY 2009-10.**

In general, compensation for the former CAO and the Assistant CAO's are costs of carrying out the operations of the city government and thus are to be charged against the city's General Fund. The California Constitution, Article XIII D, section 4(a), provides, "An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit upon them and upon which an assessment will be imposed. . . ." The California Constitution, Article XIII D, section 6(b)(4), provides, "No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question." Thus, these charges are inappropriate unless it is clearly demonstrated (and documented) that they are directly related to providing services to the districts funded through assessments. City staff members said that compensation for the former CAO and the Assistant CAO was charged to the districts on a percentage basis. There is apparently no relation to services provided.

- **There may be other questionable charges against the districts funded through direct assessments.**

Given the lack of internal controls noted in previous sections of this audit report, there is a high probability that there may have been other inappropriate charges against the increased assessments. As the scope of the SCO audit focused on the city's internal controls, we did not conduct a detailed examination of the charges against the funds of the districts funded through direct assessments.

In addition to the findings regarding programs funded through direct assessments, the SCO identified questionable practices related to pension assessment and business license taxes where the Bell City Council or city management may have inappropriately increased tax levies. These increases either increased the city's General Fund revenues or reduced the General Fund burden to fund pension obligations, which in turn increased the amount available to fund increase in compensation of the city managers and staff members. Specifically, the audit found:

- *Pension Assessment*

On July 23, 2007, the Bell City Council adopted Resolution No. 2007-42 to increase the tax levy related to the payment of the city's pension obligation, from 0.187554% in FY 2006-07 to 0.237554% in FY 2007-08, 0.257554% in FY 2008-09, and 0.277554% in FY 2009-10—an increase of approximately 48% over a three-year period. The increased rates resulted in \$2,934,144 in additional taxes over a three-year period, and reduced the city's General Fund burden to fund pension obligations by the same amount.

The SCO found the increased tax levy to be unallowable under Revenue and Taxation Code section 96.31(b). Under this section, the City of Bell had no authority to levy a property tax rate greater than the rate imposed in FY 1982-83 or FY 1983-84. Thus, the \$2,934,144 in additional tax levies is unallowable. In a letter dated August 13, 2010, to the Los Angeles County Auditor-Controller, the State Controller identified this issue and requested immediate action to reduce the property tax levy that ultimately was applied toward the city's pension obligation during FY 2010-11, and to repay the excess amounts collected in accordance with applicable statutory provisions.

o *Business License Taxes*

The city increased the amount for business license taxes, which includes rental business license taxes, by more than 50% for more than 1,000 business owners in the city since the 2000 calendar year. The increase was made without voter approval. In addition, there is no evidence to suggest that the Bell City Council had approved the increases.

The passage of Proposition 218 in 1996 added Articles XIII C to the California Constitution which specifies, "No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote." With respect to business licenses, the SCO found that the cities and counties levy business license fees and taxes for different purposes. In general, when a fee is levied for regulatory purposes, voter approval is not required. If the tax is levied for revenue generating purposes, then voter approval is required.

The Bell Municipal Code clearly states that business license taxes are taxes for revenue generating purposes. Bell Municipal Code section 5.04.020 states, "The purpose of the provisions of this division is to prescribe a schedule of business license taxes, for **revenue purposes only** [emphasis added], for all businesses located within the city, in the amounts and manner as set forth hereinafter."

In addition, revenue collected from business license taxes is deposited in the city's General Fund and are available at the discretion of the city's management, subject to the approval of the City Council, to fund any operation or activity within the city government. Therefore, we believe the increases were general tax increases and subject to voter approval.

In addition, we found the city's method of calculating increases to be in conflict with Bell Municipal Code section 5.08.030 which states:

No cost of living increase or decrease, in any calendar year, shall exceed the principal amount of the business license tax imposed during the preceding calendar year, by more than five percent.

The city increased the business license tax by approximately 20% for the 2000 calendar year and by approximately 19% for the 2005 calendar year. The justification was that the city did not impose cost of living increases in prior years and thus it was applying the increases retroactively. The municipal code section cited above contains no provision to allow the city to apply cost of living increases retroactively.

It is not possible to quantify the specific amount of additional business license taxes collected as a result of the increase imposed without voter approval because more than 1,000 businesses, with varying rates, are involved. However, based on annual collection figures, we estimate the total to be more than \$2.1 million for calendar years 2000 to 2010.

RECOMMENDATIONS

The SCO recommends that the City of Bell take the following actions:

1. Retain the services of an outside firm to develop new business policies, processes, and procedures as well as institute sound administrative and accounting internal controls. The current system does not have the capacity to implement needed changes with the current management structure and staff. To ensure independence, selection of the outside firm should be made using a sound request-for-proposal system and final selection should be made openly and competitively with citizen participation.
2. As an alternative to the above recommendation, the city should contact the League of California Cities and seek assistance to install a new internal control system from a panel of its peers.
3. Assess the status of the current projects funded through Measure A bond funds and develop a plan for completion that includes budgets, milestones, status, and completion date. Prior to adoption, the plan should be present to the City Council in open sessions and public input should be carefully considered. Once the plan is adopted, monthly updates of the status of implementation and costs incurred on the projects should be made to the City Council in open sessions. The services of outside contractors needed to complete the projects should be acquired through open, competitive bids.
4. Immediately refund the unallowable excess amounts of taxes (pension levy and business license) collected.
5. Immediately refund or offset future Sanitation and Sewerage System District assessments that were collected without voter approval.
6. Comply with its paying agent agreement with the U.S. Bank National Association by establishing separate trust accounts for Measure A funding in accordance with the provisions of the agreement.
7. Reverse the salary charges that were incorrectly charged to four districts and allocate the amounts to the appropriate funds.
8. Seek repayment as soon as legally possible on all outstanding "administrative agreement" loans as well as the \$300,000 business loan.
9. Make the Director of Planning Services a city employee to avoid conflicts of interest and save the city money.

In addition, as certain matters disclosed in this report suggest possible intentional misuse of public funds that may involve collusive practices, the Controller's Office is providing copies of this report to the appropriate law enforcement agencies for consideration of additional investigation and possible legal action.

Appendix 1— Evaluation of Elements of Internal Control

Management Oversight & Control (Control Environment)		Yes	No	Comments
<p>A1. Integrity and Ethical Values</p> <p>a. Are code of conduct and other policies regarding acceptable business practices, conflicts of interest, or expected standards to ethical and moral behavior in existence and communicated to all city management and employees?</p>	<input checked="" type="checkbox"/>		<p>Non-existent and it appears that lack of communication exists. Events or transactions that occurred are as follows:</p> <ul style="list-style-type: none"> • Salaries of the City Council and management are disproportionate when compared with salaries in other cities. We noted that the average annual salary of 4 of 5 City Council members was \$97,372, while annual salaries of City Council members around the Los Angeles area average \$13,977. In addition, the City of Bell's Chief Administrative Officer's (CAO) annual salary was \$666,733 and the Assistant CAO's was \$325,180. The average salaries for the same position around the Los Angeles area are \$209,050, and \$165,277, respectively. • Contracts for several vendors were missing or non-existent. For Fiscal Year (FY) 2008-09 and FY 2009-10, \$841,766 and \$110,000 were paid to D & J Engineering and to Urban & Associates, Inc. The contract agreement between the city and D & J Engineering expired in June 30, 1996. The folder file for Urban & Associates did not contain any contract agreement. • Some purchases of capital assets are questionable. For example, the city purchased properties from the Pete Werthein Children's Private Annuity Trust for \$4.8 million. From the file that was provided to us, we cannot determine what business benefit will be gained by the city in purchasing these properties. • City Council members did not perform adequate review relating to budgets, purchases approval, and employee salaries and advancements. <p>1. The City Council approved the Program of Service/Budget for the Fiscal Years Commencing July 1, 2008 and Ending June 30, 2011 (a revision to the five-year budget 2005-10). However, from our inquiry, a copy of this program service budget was not provided to the City Council until three days before the City Council meeting. Normally, the City Council will review the budget revenue estimates five months before the beginning of the fiscal year.</p> <p>2. The City Council was to conduct an evaluation of the performance of the CAO. There were no evaluation reports found in the CAO's personnel record.</p> <ul style="list-style-type: none"> • The city made payments on personal loans. The CAO obtained personal loans (total amount of \$100,000) from his deferred compensation plans (457 and 4019(a)). We noted that these personal loans were paid by the city. • The city had unacceptable loan arrangements for several city employees. Several city officials and employees obtained a personal loan from the city and these loans were paid with accrued sick leave and vacation. 	

Appendix 1 (continued)

	Yes	No	Comments
b. Is reasonable management attitude "Tone at the Top" established by management and communicated to city management and staff?		✓	The former CAO had too much autonomy and no one questioned his decisions or processes to be implemented. The CAO appoints, and may promote, demote, suspend or remove, all department heads, officers, and employees of the city except elected officers and those department heads appointed by the City Council. In addition, the CAO approved purchases ranging from \$50 to \$50,000. The CAO had two personal loans of less than \$50,000 each that were paid by the city.
c. Is everyday dealing with vendors, clients, auditors and other parties based on honesty and fairness?		✓	Several vendors and service providers who were receiving payments from the city did not have contracts, or contracts are missing or expired. For FY 2008-09 and FY 2009-10, D & J Engineering was paid a total of \$841,766 without a current contract and Urban & Associates, Inc. was paid \$110,000 without a contract included in its vendor file.
d. Is appropriate remedial action taken in response to non-compliance?		✓	Per our inquiry, there were no established procedures to address non-compliance. The city staff relied on the CAO on what action(s) to do regarding non-compliance.
e. Is management intervention in overriding established controls documented?		✓	None noted.
A2. Commitment to Competence			
a. Is management analyzing tasks relative to a particular job regarding need and extent of supervision?		✓	The city does not have full staffing to perform its daily operations. The CAO, Assistant CAO, and the Director of Community and Social Services resigned from their respective positions. In addition, other city staff members were assigned to the City of Maywood to perform accounting and other administrative services for that city.
b. Is management evaluating and determining the knowledge and skills needed to perform jobs and the employees have the required knowledge and skill to perform assigned tasks?		✓	No management evaluation noted regarding employees competence during our review of personnel records. In addition, City Council is supposed evaluate the CAO's performance as condition for his salary increases but there were no evaluation reports found in the CAO's personnel file.
A3. Management and Operating Style			
a. Is management conservative in accepting risks, moves carefully, and proceeds only after careful evaluation?		✓	No. City management made various decisions that appear to be unreasonable. For example, there was an issuance of a lease revenue bond where the city is in danger of defaulting; purchase of city lots from a former mayor does not make good business sense; and increases of property taxes over the limit established by the regulation.
b. Is personnel turn-over in key functions at an acceptable level and not excessive?		✓	See A.2a above.

Appendix 1 (continued)

	Yes	No	Comments
c. Is management's attitude positive towards internal control and audit function?		✓	The city management has given consideration to the adequacy of internal control (as stated in its Procedures Manual); however, adequate separation of duties is lacking due to inadequate staffing, there were improper authorization of transactions and activities (see A.1a above), and documents and records are inadequate to provide reasonable assurance (see A.1c). The city does not have an internal audit unit and no internal auditor. The city contracted with an independent CPA firm to complete its annual financial statements.
d. Are there frequent interactions of senior management and operation management in both formal and informal settings?		✓	Per our inquiry, the Director of Administrative Services stated that there were no set formal or informal meetings between the CAO and other city management personnel.
e. Is management's attitude appropriate towards financial reporting and other operational reporting?		✓	There were errors noted in the CAO's direct labor distribution report. This is the same with other high management personnel of the city. The CAO allocated direct labor salaries to different fund accounts (e.g., 35% to the General Fund). However, there was no vacation and sick leave pay allocated to the General Fund for the same pay period.
A.4. Organizational Structure			
a. Is the organization structure centralized or decentralized to facilitate flow of information?		✓	The organization structure is centralized; however, there were no procedures established on how information was disseminated to the staff and the City Council. From our observations, letters, e-mail and direct oral communication were the medium of communication.
b. Are key managers' responsibilities adequately defined and communicated?		✓	Key managers' responsibilities were defined; however, incompatible functions were performed by these managers due to inadequate staffing. Most of the time, daily operation functions were performed by "whoever is available."
c. Do managers in charge have the required knowledge, experience, and training?		✓	Some of the managers that we have inquired with appear to have the required knowledge to perform their primary responsibilities; however, these managers will follow orders and instructions from the CAO without question. For example, the payments of the CAO's personal loans were never questioned.
d. Does the city's established reporting relationship ensure effective communication between employees, supervisors, managers, and officers?		✓	To a limited extent. There is a serious crossover of employees performing different functions due to inadequate staffing. For example, if the accounts payable clerk is absent from work, whoever is available from the staff will perform her work. It appears from our observation, that almost all of the management and employees of the administrative services receive cash payments from the public.
A.5. Assignment of Authority and Responsibility			
a. Is proper information considered in determining the level of authority and scope of responsibility to an employee?	✓		Proper information was considered in determining level of authority and scope of responsibility; however, the CAO had the ability to do whatever he wanted. For example, a document needed for the CAO personal loan application was signed by the Assistant CAO. This document should have been approved by a higher authority.

Appendix 1 (continued)

		Yes	No	Comments
	b. Are responsibilities for decisions related to assignment of authority and responsibility?		✓	Based upon our inquiry, most of the decisions are referred to the CAO. For example, significant revision of revenue items that were included in the budget was up to the CAO. Additional engineering services between D & J Engineering were discussed with the CAO.
	c. Are employees at the right level empowered to correct problems or implement improvements?		✓	Yes, but only to a certain extent. Processing of payroll and correction of errors were made by either the treasurer or the accounting manager. Most city staff members follow orders and instructions from the CAO.
	d. Do job descriptions exist and contain specific references to control-related responsibilities?	✓		Job descriptions exist and contain specific references to control-related responsibilities; however, staff members perform incompatible duties due to inadequate staffing.
A6.	Human Resources Policies and Practices			
	a. Are policies and procedures established for hiring, training, and promoting employees and management particularly in hiring and training?		✓	The CAO is responsible for hiring, firing, and promoting city staff (see A1b. above).
	b. Are employees made aware of their responsibilities and expectations of them?	✓		Employees are made aware of their responsibilities and expectations of them during the hiring process. There was no follow-up after an employee is hired. There were no evaluation reports noted in the personnel file that we reviewed.
	c. Is management's response to failure to carry out assigned responsibilities appropriate?		✓	This is the sole responsibility of the CAO. There was no documentation questioning the CAO's decisions.
	Risk Analysis			
B1.	Goals and Objectives			
	a. Are there entity-wide objectives that were established by management?	✓		Goals were established by management within the administrative services unit but not city-wide objectives. The City of Bell's procedures manual that was provided to the auditors was only for the administrative services unit.
	b. Does information relating to objectives disseminated to all city employees?		✓	There was no documented procedural process of relaying information among city staff except that employees are notified either by co-workers or their superiors about new information.
	c. Are goals (with specific targets and deadlines) established and relate to objectives?		✓	No. Staff's goals are limited to their roles and responsibilities in performing their assigned tasks. The staff's attitude is that the goals and objectives are up to management, mostly to the CAO.
	d. Are measurement data included in the objectives?		✓	We were not able to obtain any measurement data.
	e. Are plans reviewed annually to ensure consistency (strategic plans, bus plans, budget, etc)?		✓	We were not able to obtain any annual reviews.
	f. Are managers involved in establishing objectives for which they are responsible?		✓	It appears that managers are isolated to their departmental goals and objectives.

Appendix I (continued)

		Yes	No	Comments
B2. Risk				
	a. Does the risk-assessment process in place consider the extent and internal factors affecting objectives?		✓	There was no documented assessment process relative to risk. The Risk Assessment Officer (Assistant Chief Administrator) no longer works for the city. The Director of Administrative Services temporarily took over this position.
	b. Does the risk assessment process include estimated significance of risks, assessing likelihood of occurrence, and determining the needed actions to prevent risks?		✓	Staff members were neither concerned nor did they have a clear understanding at the relevance of risk assessment. We were not able to obtain any documentation in support of a risk assessment.
	c. Is management considering the risks related to Human Resources, budgeting, labor relations, and Information Systems?		✓	There was no documentation, and both staff members and management stated that they were not involved in risk assessment.
B3. Managing Change				
	a. Are there mechanisms in place to anticipate, identify, and react to routine events or acts that affect achievement of objectives?		✓	There was no documentation—written or verbal—relative to addressing routine events or acts that may affect objectives.
	b. Are there mechanisms in place to identify and react to changes that can have dramatic and pervasive effect on the City?		✓	No. The CAO will address all changes and will make recommendations to the City Council for approval.
Control Activities				
C1. Management Reviews				
	a. Controls are performed and checked for reasonableness, allowability and validity of transactions?		✓	It appears that some controls are performed and checked for reasonableness, allowability, and validity of transactions; however, there were unreasonable and unallowable transactions that were processed. For example, personal loans by the CAO were paid through the city's accounting system.
	b. Are controlled items counted check periodically?		✓	Records were kept for some controlled items; however, these records were incomplete.
	c. Does management compare different sets of data and investigate variances?	✓		Yes, variances relating to staff payroll records were investigated and corrected. We did not note if management performs these comparisons on other areas of the accounting transaction cycles.
	d. Are duties properly segregated?		✓	See A2b above.
	e. Are administrative and operation policies in writing, current, and do they set clear procedures for compliance?	✓		The City of Bell has a procedures manual. This manual was last updated in August 2007.

Appendix I (continued)

Information and Communication		Yes	No	Comments
D1. Information				
	a. Are mechanisms in place to obtain relevant information on program, legislative or regulatory developments, budget, or economic changes?		✓	Information relative to some programs and budgets were not available and information regarding legislative or regulatory development or economic changes is not in place to readily access information. There was no staff or management assigned to perform such functions.
	b. Have long range information technology plans been developed and linked with strategic initiatives?		✓	None noted.
D2. Communications				
	a. Are communication vehicles sufficient in effecting communications?	✓		E-mails and updates from co-workers and supervisors.
	b. Do employees know the objectives of their own activity and how their duties contribute to achieving objectives and others goals?	✓		Employees know the objectives of their own activity, but not how their duties contribute to achieving objectives and others goals. From our inquiries, staff knew of their specific job objectives but not how they contributed to other staff's objectives and goals.
	c. Are communications channeled to people to report suspected act, permits anonymity, and feedbacks are provided?		✓	We were not able to obtain any documentation.
	d. Does adequate communication exist across the organization? Is information complete, timely, and sufficient?		✓	We were unable to document communication flowing from management to staff and staff to management.
	e. Are feedback mechanism for external parties (suggestions, input, complaints) directed to relevant internal parties?		✓	From our observation and inquiry, all complaints and suggestions were taken at the office counter.
	f. Are staff and other personnel receptive to report problems from external parties?	✓		Staff members at the office counter will address problems from external parties and will get supervisors involved if needed.
	g. Is top management aware of the nature and volume of complaints?		✓	Complaint log is not maintained.
Monitoring				
E1. Ongoing Monitoring				
	a. Are operational information integrated or reconciled with data generated by the administrative services?	✓		Information is included in the city's procedures manual.
	b. Are operation personnel required to "sign off" on the accuracy of their unit's records?		✓	Staff will perform their assigned tasks but confirmation on the accuracy of their work is not a procedure that is in place.

Appendix 1 (continued)

	Yes	No	Comments
c. Are communications from outside parties and monthly statements of accounts payable used as control monitoring technique?		✓	From our inquiry, the accounts payable clerk or her supervisor does not use inquiry and questions of external parties for monitoring technique.
d. Are periodic comparisons of amounts recorded by accounting system compared with physical assets?	✓		Records were kept for some physical assets; however, these records were incomplete and not reconciled to physical assets.
e. Does City management have proper authority to decide which of the auditors' recommendations are to be implemented?			N/A. The city does not have an internal audit unit. Recommendations from external CPA were addressed by the CAO.
f. Are employees' suggestions communicated and acted on as appropriate?		✓	From our inquiry, there were no formal processes of addressing employee or external parties' suggestions.
g. Does a policy exist to adopt an Incompatible Activities Statement of Conduct?	✓		This is stated in the City of Bell procedural manual. However, the city was inadequately staffed to perform in incompatible duties.
E2. Separate Evaluation			
a. Do employees with appropriate skills evaluate portions of the internal control?		✓	From our inquiry and observation, the staff and management did not evaluate internal controls.
b. Do city staff members gain sufficient understanding of internal controls?		✓	No internal control reviews employed by the city with the exception of the annual financial audits.
c. Are policy manuals, organization charts, and operational instructions available for review?	✓		Only the City Bell procedures manual, City Charter Provision, and City Ordinance.
E3. Reporting Deficiencies			
a. Are means of obtaining reports of deficiencies from both internal and external sources exist?		✓	Report of deficiencies is not maintained.
b. Is there ongoing monitoring of internal controls?		✓	Although procedures for monitoring internal control is stated in the procedures manual, from our observation and inquiry, monitoring of internal control has not been performed by city staff. N/A, see comment above, E3b.
c. Are deficiencies directly reported to the person directly responsible for the act and to a person at least one level higher?			
d. Are the transactions or event identified investigated, causes determined, and problem corrected. We were not able to obtain any measurement data.?			N/A, see comment above, E3b.

**Appendix 2—
Summary of Annual Compensation
For Selected City Officers
For the Fiscal Years 2008-09 and 2009-10**

	Fiscal Year		Total
	2008-09	2009-10	
Mayor:			
Community Redevelopment Agency--Regular Salary	\$ 722.71	\$ 722.71	\$ 1,445.42
Life Insurance	396.00	396.00	792.00
Deferred Compensation		16,500.00	16,500.00
Regular Salary	73,665.42	77,019.36	150,684.78
Retro Pay--Regular Salary		826.95	826.95
Regular Salary--Surplus Prop. Auth.	17,964.63	18,803.06	36,767.69
Total	\$ 92,748.76	\$ 114,268.08	\$ 207,016.84
City Council Member A:			
Community Redevelopment Agency--Regular Salary	\$ 722.71	\$ 722.71	\$ 1,445.42
Life Insurance	258.00	258.00	516.00
Deferred Compensation	—	16,500.00	16,500.00
Regular Salary	73,665.42	77,019.36	150,684.78
Retro Pay--Regular Salary	—	826.95	826.95
Regular Salary - Surplus Prop. Auth.	—	18,803.06	18,803.06
Total	\$ 74,646.13	\$ 114,130.08	\$ 188,776.21
City Council Member B:			
Community Redevelopment Agency--Regular Salary	\$ 647.95	\$ 722.71	\$ 1,370.66
Life Insurance	258.00	396.00	654.00
Deferred Compensation	—	16,500.00	16,500.00
Regular Salary	73,665.42	77,019.36	150,684.78
Retro Pay--Regular Salary	—	826.95	826.95
Regular Salary - Surplus Prop. Auth.	17,964.63	18,803.06	36,767.69
Total	\$ 92,536.00	\$ 114,268.08	\$ 206,804.08
City Council Member C:			
Community Redevelopment Agency--Regular Salary	\$ 545.49	\$ 722.71	\$ 1,268.20
Life Insurance	11.50	90.00	101.50
Deferred Compensation		16,500.00	16,500.00
Regular Salary	55,601.87	77,019.36	132,621.23
Retro Pay - regular salary		826.95	826.95
Regular Salary-- Surplus Prop. Auth.	13,559.51	18,803.06	32,362.57
Total	\$ 69,718.37	\$ 113,962.08	\$ 183,680.45
City Council Member D¹:			
Community Redevelopment Agency--Regular Salary	\$ ---	\$ 520.57	\$ 520.57
Life Insurance	—	46.00	46.00
Deferred Compensation	—	—	—
Regular Salary	—	4,515.56	4,515.56
Retro Pay--Regular Salary	—	—	—
Regular Salary--Surplus Prop. Auth.	—	803.51	803.51
Total	\$ ---	\$ 5,885.64	\$ 5,885.64

Appendix 2 (continued)

	Fiscal Year		Total
	2008-09	2009-10	
Chief Administrative Officer²:			
401(a)	\$ 48,000.00	\$ 48,000.00	\$ 96,000.00
Auto Allowance	4,320.11	4,818.59	9,138.70
Float Holiday	2,415.00		2,415.00
Holiday	19,205.00	26,758.20	45,963.20
Life Insurance	138.00	258.00	396.00
Miscellaneous	47,563.09	45,877.47	93,440.56
OT--Deferred Comp 457	22,000.00	22,000.00	44,000.00
Regular Pay ²	538,430.00	666,733.20	1,205,163.20
Retroactive Pay		12,461.40	
Sick Paid	80,059.41	96,057.52	176,116.93
Vacation Paid	237,994.30	286,518.75	524,513.05
Regular Salary--Surplus Prop. Auth.	---	---	---
Total	\$ 1,001,124.91	\$ 1,210,483.13	\$ 2,210,608.04
Assistant Chief Administrative Officer:			
401(a)	\$ 48,000.00	\$ 48,000.00	\$ 96,000.00
Float Holiday	1,177.85	---	1,177.85
Holiday	11,582.19	13,050.56	24,632.75
Life Insurance	138.00	138.00	276.00
Miscellaneous	1,000.00	1,000.00	2,000.00
Regular Pay	286,020.73	325,180.34	611,201.07
Retroactive Pay		6,077.69	
Sick Paid	41,010.00	46,524.91	87,534.91
Vacation Paid	122,023.88	138,231.65	260,255.53
Regular Salary--Surplus Prop. Auth.	---	---	---
Total	\$ 510,952.65	\$ 578,203.15	\$ 1,089,155.80
Director of Administrative Services:			
401(a)	\$ ---	\$ ---	\$ ---
Float Holiday	3,273.08	---	3,273.08
Holiday	7,005.38	8,795.84	15,801.22
Life Insurance	60.00	60.00	120.00
OT--Deferred Comp 457	16,500.00	16,500.00	
Regular Pay	188,804.77	219,165.13	407,969.90
Retroactive pay	---	4,096.22	
Sick Paid	1,190.77	6,570.48	7,761.25
Vacation	793.85	---	
Vacation Paid	27,487.11	17,506.56	44,993.67
Regular Salary--Surplus Prop. Auth.	---	---	---
Total	\$ 245,114.96	\$ 272,694.23	\$ 517,809.19
Director of Community Services and Social Services:			
401(a)	\$ ---	\$ ---	\$ ---
Float Holiday			
Holiday	\$ 6,161.54	\$ 6,161.52	\$ 12,323.06
Life Insurance	138.00	138.00	276.00
OT--Deferred Comp 457	4,000.11	4,207.65	
Regular Pay	154,038.53	154,670.56	308,709.09
Vacation	616.15	---	
Vacation Paid	19,704.62	19,723.10	39,427.72
Regular Salary--Surplus Prop. Auth.	---	---	---
Total	\$ 184,658.95	\$ 184,900.83	\$ 369,559.78

Appendix 2 (continued)

	Fiscal Year		Total
	2008-09	2009-10	
Director of General Services:			
401(a)	\$ ---	\$ ---	\$ ---
Float Holiday	3,969.23		3,969.23
Holiday	7,895.40	8,795.83	16,691.23
Life Insurance	60.00	60.00	120.00
OT-Deferred Comp 457	16,500.00	16,500.00	
Regular Pay	193,434.06	219,165.13	412,599.19
Retroactive pay	---	4,096.22	4,096.22
Total	\$ 221,858.69	\$ 248,617.18	\$ 470,475.87
Chief of Police ³ :			
Holiday		\$ 15,819.30	\$ 15,819.30
Regular Pay		411,301.64	411,301.64
Uniform	---	1,250.00	1,250.00
Total	---	\$ 428,370.94	\$ 428,370.94

¹ Appointed as City Council Member on October 12, 2009.

² Regular pay includes compensation for performing duties as the City's CAO as well as the Executive Director of the following authorities effective September 1, 2008: Bell Surplus Property, Bell Solid Waste and Recycling, Bell Community Housing, Bell Public Financing, Bell Community Redevelopment.

³ Employed as Chief of Police on April 28, 2009.

**Appendix 3—
Uses of General Obligation Bond—Measure A
(2003 Election) Proceeds ¹**

Use of Proceeds	2004 Issuance	2007 Issuance	Total
Little Bear Park	\$ 6,199,210.90	\$ 2,487,886.45	\$ 8,687,097.35
Bell Sports Complex	3,100,083.83	3,004,238.86	6,104,322.69
Bond Interest	—	4,987,697.92	4,987,697.92
Deb's Park	1,533,081.78	—	1,533,081.78
Veteran's Clubhouse	1,507,093.52	—	1,507,093.52
Skate Park	1,224,401.09	18,860.00	1,243,261.09
Nueva Vista Park	1,223,209.41	4,550.00	1,227,759.41
Cost of Issuance	255,855.48	162,745.05	418,600.53
Veteran's Park	16,941.14	545,635.69	562,576.83
Civic Center	398,822.16	—	398,822.16
City Hall/Police Department	—	265,257.60	265,257.60
Treder Park	50,371.41	15,297.98	65,669.39
Election Costs	28,701.37	—	28,701.37
Miscellaneous	8,736.46	8,474.55	17,211.01
City Monument	2,877.00	—	2,877.00
Total	\$ 15,549,385.55	\$ 11,500,644.10	\$ 27,050,029.65

¹ The amounts presented on this Appendix are based on city-prepared, unaudited documents.

**Attachment A—
Controller Chiang's Letter to Wendy Watanabe
Dated August 13, 2010, Regarding
Pension Assessment Fund**



JOHN CHIANG
California State Controller

August 13, 2010

Wendy L. Watanabe
Auditor - Controller
County of Los Angeles
500 West Temple Street, Room 525
Kenneth Hahn Hall of Administration
Los Angeles, CA 90012

Dear Ms. Watanabe:

During the course of my audit of the financial affairs of the City of Bell, my auditors have discovered an issue that requires immediate attention.

It appears that on July 23, 2007, the City Council of Bell passed Resolution No. 2007-42 (copy attached) to increase the level of tax being assessed to pay the City of Bell's pension obligations from .187554% to the following:

For 2007-08 - .237554%
For 2008-09 - .257554%
For 2009-10 - .277554%

These increased rates were assessed by your office during the years cited. However, we have determined that the tax levies approved by the City Council of Bell through Resolution No. 2007-42 are unallowable under Revenue and Taxation Code section 93.31(b). Under this section, the City of Bell has no authority to levy a property tax rate greater than the rate imposed in the Fiscal Year 1982-83 or Fiscal Year 1983-84. The estimate of the unallowable taxes assessed during the fiscal years of 2007-08, 2008-09 or 2009-10 is \$2.9 million (see attached).

Additionally, under Revenue and Tax Code section 96.31(d), the County Auditor of Los Angeles is required to reduce the City of Bell's tax levy for pension obligations to the amount allowable - .187554%. The law also requires that the overpayment of unallowable taxes collected must be allocated to elementary, high school, and unified school districts within the City of Bell in proportion to the average daily attendance of each district.

Therefore, I request that you review this matter and take immediate actions to ensure that the taxpayers of the City of Bell are not further burdened with what appears to be an improper property assessment.

Wendy L. Watanabe
August 13, 2010
Page 2

In order to remedy this situation, the property tax levy for the City of Bell pension obligation during Fiscal Year 2010-11 should be reduced to .187554%. Also, any amounts collected above the allowable rate of .187554 during the three years identified should be calculated and reallocated to the elementary, high school and unified school districts within the City of Bell in accordance with the requirements of Revenue and Tax Code section 96.31(d).

If you have any questions, please contact Jeffrey V. Brownfield, Chief, Division of Audits at (916) 324-1696.

Sincerely,
Original signed by:

JOHN CHIANG
California State Controller

cc: Pedro Carrillo, City of Bell Interim City Administrative Officer
Mark Saladino, Treasurer, Los Angeles County
Robert Quon, Assessor, Los Angeles County

**Attachment B—
Jeffrey V. Brownfield's Letter to James M. Casso
Dated September 14, 2010, Regarding the
Sanitation and Sewerage System District Assessment Fund**



JOHN CHIANG
California State Controller

September 14, 2010

James M. Casso
Attorney at Law
Meyers | Nave
33 South Grand Avenue, Suite 1670
Los Angeles, CA 90071

Re: City of Bell Standby Charges/Assessments

Dear Mr. Casso:

Thank you for your letter dated September 9, 2010 (Attachment A), in which you responded to our letters of August 27, 2010 (Attachment B) and September 2, 2010 (Attachment C). In your letter, you expressed some disagreement with our conclusion that the City of Bell owed its residents a refund because it had increased a standby charge without following California's constitutional requirements.

Your letter states that the Bell City Council authorized the annual levy of standby charges on May 21, 2007. Your letter further states:

The Council effectuated the 2007 authorization of the levy of the annual standby charges by the adoption of Resolution No. 2007-27 (Attachment 3). The standby charge rates authorized to be levied in 2007, as calculated in the Engineer's Report attached to the resolution, were as follows, which are the same amounts levied in 1992. . . .

We agree with this statement.

In your response you also indicated that in Resolution No. 2007-31, the city recites having provided 45 days notice of a public hearing on the proposed adoption of a fee for sewer service, and included a copy of the notice as Attachment 5 to your letter. In reviewing the notice, we note that it states:

If adopted, the proposed rate adjustments will become effective on July 1, 2007. The basis and reasons for the proposed sewer rate adjustments are to enable the City to recover increasing operating expenses, as well as fund additional capital needs required to operate the sewer system in a financially prudent manner. The bases for the rate adjustments are more particularly analyzed in that certain sewer cost report prepared by the City ("City Report"). The Cost Report is on file at the Office of the City Clerk located at 6330 Pine Ave., Bell, California 90201 and may be reviewed there by any interested person.

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250-5854
SACRAMENTO 1301 C Street, Suite 725, Sacramento, CA 95816 (916) 334-8907
LOS ANGELES 600 Corporate Pointe, Suite 1000, Culver City, CA 90230 (310) 342-5656

James M. Casso
September 14, 2010
Page 2

Two things are apparent in that paragraph of the notice. The first is that the paragraph refers to "sewer rate adjustments." As an adjustment, the notice necessarily implies that the rates have been previously levied and are in effect. In what appears to be a direct contradiction of the plain language of the notice, you expressed the view that this is a "new" sewer fee. However, the only previously levied charge, as you have acknowledged in your letter, was a standby charge. Consequently, since a tax or assessment that does not yet exist cannot be adjusted, we do not concur with your conclusion.

The second thing of importance is that the notice attached refers to a "cost report" in the Office of the City Clerk. When we inquired about this cost report, the City Clerk indicated that she was not aware of any cost report. Later, however, she provided a folder that had the Resolution No. 2007-31 and a copy of the engineer's cost report which consisted of a single page. The document provided is noteworthy for two reasons: (1) the costs indicated therein are the same as the costs used for the approval of the standby charge in Resolution No. 2007-27, and (2) the cost report is signed and dated on June 25, 2007, the day of the public hearing. It is somewhat difficult to conclude that this cost report is the one referenced in the notice of the public hearing or, for that matter, the staff report referred to in your letter simply because it was not available for 45 days prior to the public hearing. On the other hand, the only other cost report that was available is the one that supports the standby charge.

Moreover, you have also indicated that it was unfortunate that the authors of Resolution No. 2007-31 and its accompanying staff report referred to the contemplated action as "upwardly adjusting its sewer service rates," thus implying that it was increasing the standby charges. If the public notice, as you stated, implied that the city was increasing the standby charges, then perhaps the validity of the public hearing could or should be called into question and the validity of the "sewer service fee" challenged as being invalid. While we recognize that your opinion is qualified in many respects and based upon the information made available to you, it appears that your characterization of the events are not supported by the documents we reviewed or, for that matter, the documents you attached to your letter.

In your letter you maintain that the city has only collected the sewer service fee (your description of the standby charge) since 2007, although it has continued to be labeled as a "Sewer Maintenance Assessment" on property tax bills. You further state that the city retains authority to levy the standby charge but has not done so since 2007. Instead the city has opted to require payment of the fee for sewer service.

A careful review of Bell City Council Resolution Nos. 2008-18, 2009-20, and 2010-27 would seem to contradict that assertion. The engineer's reports accompanying the resolutions are labeled as "Engineer's Report for the Sewer Maintenance District Standby and Availability Charges in the City of Bell" followed by the fiscal year. Furthermore, Section 3 of the engineer's report, "Necessity for the Charges," states, ". . . it finds necessary to levy a charge for standby and availability on all properties that are or will be receiving these services to offset the costs incurred in the maintenance of the sewer system to assure the safe operation of the sewer facilities." This begs the question that, to the extent this is a new sewer service charge, why are properties that are currently not receiving the service being charged? As clearly stated, the charge is ". . . on all properties that are or will be receiving these services" (emphasis added). This appears to be a classic definition of a standby charge.

A closer review of Resolution No. 2010-27, reveals the following:

- Section 3 provides, "That the City Council hereby confirms, approves, and adopts the description of property subject to levy, estimate of costs and assessments as submitted and orders the annual levy of the assessment for the fiscal year and in the amounts set forth in the Engineer's Report and as referred to in the Resolution of Intention as previously adopted relating to said annual report."
- Section 4 states, "That the adoption of this Resolution constitutes the levy of the assessment for the fiscal year to cover the costs of administration and servicing of properties within the District."
- Section 6 states, in relevant part, "The County Auditor shall enter on the County Assessment Roll the amount of the Assessment and said Assessment shall be collected at the same time and in the same manner as County taxes are collected."
- Section 7 states, "That the City Clerk shall transmit or cause to be transmitted to the County Auditor of the County of Los Angeles, before August 10, 2010 a certified copy of the diagram and assessment roll, together with a certified copy of this Resolution."

The wording in these sections shows that the assessment is being levied pursuant to the information in the engineer's report which clearly identified the charge as a standby and availability charge. There is no mention of a sewer service charge or similar term.

From our perspective, it appears as though the re-characterization of the standby charges as a new assessment is more for the sake of convenience in order to circumvent voter approval of such charges and your position is not supported by the documentation.

James M. Casso
September 14, 2010
Page 4

While we will include your response in our final report, we are unable to concur with the conclusion reached in your letter inasmuch as you have not presented any new or additional information or explanations sufficient to warrant amending our findings. Accordingly, our position and recommendation in the letter dated September 2, 2010, remains unchanged.

If you have any questions, please contact me at (916) 324-1696.

Sincerely



JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/wm

8858

Attachments:

- Attachment A—James M. Casso Letter of September 9, 2010
- Attachment B—Jeffrey V. Brownfield Letter of August 27, 2010
- Attachment C—Controller John Chiang Letter of September 2, 2010

cc: Oscar Hernandez, Mayor of the City of Bell
Teresa Jacobo, Vice Mayor of the City of Bell
Luis Artiga, Councilman, Bell City Council
George Mirabal, Councilman, Bell City Council
Lorenzo S. Velez, Councilman, Bell City Council
Pedro Carillo, Interim City Administrator, City of Bell
Wendy L. Watanabe, Los Angeles County Auditor-Controller

333 South Grand Avenue, Suite 1670 James M. Cesso
Los Angeles, California 90071 Attorney at Law
tel 213.626.2906 jcasso@meyersnave.com
fax 213.626.0215
www.meyersnave.com



September 9, 2010

Jeffrey V. Brownfield, Chief
Division of Audits, California State Controller
P.O. Box 942850
Sacramento, CA 94250-5874

Re: City of Bell Sewer Service Fees and Standby Charges/Assessments

Dear Mr. Brownfield:

I am writing in response to your letters dated August 27 and September 2, 2010, in which you conclude that the City of Bell has, since 2007, been levying a standby charge for sewer service and maintenance without complying with the requirements of article XIIIID of the California Constitution ("Proposition 218"). After reviewing the available documentation, and as explained below, I disagree with your conclusion. Thus, absent new and contradictory documentation not available to me at this time, I do not believe that any refund to owners of property within the City is required.

Background of the City's Standby Charge/Assessment and Sewer Service Fees

As noted in your letters, the City first adopted a standby charge to fund the operation and maintenance of its sewer system in 1989, with the adoption of Resolution No. 89-28 (Attachment 1). The rates approved at that time, as calculated in the Engineer's Report attached to the resolution were as follows:

<u>Type of Property</u>	<u>Annual Rate (per parcel)</u>
Residential Unit	\$7.47
Commercial	\$44.82
Commercial - High Use	\$74.70

The City last increased the rate of the standby charge in 1992, with the adoption of Resolution No. 92-33 (Attachment 2). Based on the information currently available, there does not appear to have been any procedural irregularity in the manner in which the Council approved the rates at that time. The rates approved at that time, as calculated in the Engineer's Report attached to the resolution were as follows:

<u>Type of Property</u>	<u>Annual Rate (per parcel)</u>
Residential: 5 or fewer units	\$12.70

Attachment A to Jeffrey V. Brownfield's September 14, 2010 Letter
(continued)

Jeffrey V. Brownfield, Chief
Division of Audits, California State Controller
September 9, 2010
Page 2

Residential: 6 or more units	\$16.32
Commercial	\$57.92
Commercial: High sewer usage	\$96.58

The City Council authorized the annual levy of the standby charges on May 21, 2007. The Council did not take that action in Resolution No. 2007-31 (Attachment 4), however, as referred to in your letters. Resolution No. 2007-31, adopted on June 25, 2007, did not increase the standby charges; instead, it approved sewer service fees, which are legally distinct from standby charges. They are property-related fees governed by article XIII(D), section 6. The Council effectuated the 2007 authorization of the levy of the annual standby charges by the adoption of Resolution No. 2007-27 (Attachment 3). The standby charge rates authorized to be levied in 2007, as calculated in the Engineer's Report attached to the resolution, were as follows, which are the same amounts levied in 1992:

<u>Type of Property</u>	<u>Annual Rate (per parcel)</u>
Residential: 5 or fewer units	\$12.70
Residential: 6 or more units	\$16.32
Commercial	\$57.92
Commercial: High sewer usage	\$96.58

As recited in Resolution No. 2007-31, the City provided 45 days notice of a public hearing on the proposed adoption of a fee for sewer service. (A copy of the notice is attached as Attachment 5.) At the conclusion of the hearing, a majority protest against the proposed increase had not been received. The City Council then adopted the resolution setting the fees. The sewer service fee amounts approved by Resolution No. 2007-31, attached as Exhibit A to the resolution and based on the Sewer Cost Report (Attachment 6), were as follows:¹

<u>Type of Property</u>	<u>Monthly Rate (annual)</u>
Residential - 5 or fewer units	\$2.68 (\$32.16)
Residential - 6 or more units	\$3.45 (\$41.40)
Commercial	\$12.26 (\$147.12)
Commercial High use	\$20.44 (\$245.28)

Unfortunately, the authors of Resolution No. 2007-31 and its accompanying staff report referred to the contemplated action as "upwardly adjusting its sewer service rates," implying that it was increasing the standby charges. As discussed in more detail below, despite that phrasing, it appears that the City Council did not approve an increase of the existing standby charges; rather, it approved a new fee for sewer service, and the City followed all of the

¹ Note that Section 2 of Resolution No. 2007-31 authorizes an automatic annual adjustment of the sewer service fees by CPI or 3%, which ever is greater.

Jeffrey V. Brownfield, Chief
Division of Audits, California State Controller
September 9, 2010
Page 3

requirements of Proposition 218 in doing so. The City has only collected the sewer service fee since 2007, although it has continued to be labeled "Sewer Maintenance Assessment" on property owners' tax bills. The City retains authority to levy the standby charges, but it has elected not to do so since 2007, opting instead to require payment of the fee for sewer service. The City will communicate with the Los Angeles County Auditor-Controller's Office about changing the description of the fee on the tax bill.

Compliance with Proposition 218

Based upon my review of the factual background and applicable law, I do not believe that a new assessment ballot proceeding was required for the authorization to levy the standby charges in 2007, and the sewer service fees were adopted in compliance with the requirements of Proposition 218.

As your letters pointed out, article XIII D, section 6(b)(4) states that standby charges "shall be classified as assessments and shall not be imposed without compliance with Section 4," which describes the assessment ballot proceeding required to obtain property owner approval for assessments. That alone is not determinative, however, of whether the City's standby charges required an assessment ballot proceeding to obtain authorization for the City to levy them. Section 5 of article XIII D provides a list of existing assessments that are exempt from the procedural approval requirements of section 4, including "[a]ny assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for . . . sewers . . .". Thus, an assessment or standby charge for sewer operation and maintenance that existed prior to the effective date of Proposition 218 is exempt from the procedural requirements of section 4, as long as the agency levying the assessment or standby charge does not increase the amount of the assessment or charge above the amount authorized pre-Proposition 218. See *Howard Janis Taxpayers Assn. v. City of Riverside* (1999) 73 Cal.App.4th 679, 682, 86 Cal.Rptr.2d 592; *Galbis v. Omni Pub. Util. Dist.* (2010) 182 Cal.App.4th 652, 107 Cal.Rptr.3d 36; *Keller v. Chowchilla Water Dist.* (2000) 80 Cal.App.4th 1006, 1012, 96 Cal.Rptr.2d 246, 251.

All of the engineer's reports supporting the standby charges since 1989 have stated that the purpose of the City's standby charges is to fund the operation and maintenance of the City's sewer system. As noted above, the amount of the City's standby charge has not increased since 1992, and the City Council did not increase it in 2007, as your letter purports. The 2007 Engineer's Report clearly states, for example, that the percentage change in the amount of the standby charges for each property type was 0. Since the standby charges preexisted Proposition 218 and have not been increased since 1992 (including not being increased in 2007), under article XIII D, section 5(a), they are exempt from the procedural requirements of article XIII D, section 4. In other words, the City was not required in 2007 to obtain property-owner authorization for the standby charges, and thus, no refund is required.

Attachment A to Jeffrey V. Brownfield's September 14, 2010 Letter
(continued)

Jeffrey V. Brownfield, Chief
Division of Audits, California State Controller
September 9, 2010
Page 4

Similarly, no refund is required of the sewer service fees approved in 2007, because the City followed the requirements of article XIII D, section 6 for property-related fees. A property-related fee (in this case for sewer services) is legally distinct from a standby charge or assessment. Levying one does not preclude levying the other, and although some properties may pay both, others—such as vacant and undeveloped properties that do not use sewer services—would only be subject to the standby charge.

The procedural requirements of article XIII D, section 4 are that the City provide 45 days notice of a public hearing at which the Council will consider approval of proposed fees. Property owners potentially subject to the fees may submit written protests against the fees. If a majority of property owners submit written protests, then a majority protest exists, and the Council may not approve the fees. If a majority protest does not exist, then the Council may approve the proposed fees.

In 2007, the City proposed increasing the existing sewer service fees as set out in Exhibit A to Resolution No. 2007-31. Based on the information presently available to me, it appears that the notice included as Attachment 5 was mailed to property owners more than 45 days before the public hearing on June 25. At the conclusion of the hearing, a majority protest did not exist, so the Council adopted Resolution No. 2007-31, approving the proposed sewer service fees. No assessment balloting proceeding or other property owner approval was required to satisfy Proposition 218.

Subsequent to the approval of the sewer service fees, the City elected to levy only the fees and not the standby charges. As you can see in Attachment 7, the City transmitted to the County Auditor-Controller Resolution No. 2007-31, instructing requesting that the Auditor-Controller include the fees on property tax bill. The transmittal contains a reference to the "Sanitation and Sewerage Systems Assessment District FY 2007-08" and uses the same account number as the City had previously used for the standby charges. To the extent that that may constitute error, it is merely administrative and does not go to the City's underlying authority to charge the sewer service fees. As noted above, the City will work with the County Auditor-Controller to correct the terminology on the tax bill.

By way of additional explanation of this issue, you may note that the Engineer's Report for the 2007 standby charges calculated the reasonable estimated cost of providing sewer services as \$347,652. It also stated that the revenue expected from the standby charges (or assessments) would be approximately \$136,982. It thus concluded that there would be a \$210,652 shortfall that would have to be made up from general funds. According to City Engineer Carlos Alvarado, the purpose of the sewer service fees was to help fill that gap so that the City's General Fund would not have to continue to subsidize sewer maintenance and operation to the same extent. The revenue expected to be generated by the sewer service fees was approximately equal to the estimated cost of providing the services, and the County Auditor-Controller's summary of the revenue generated by the fees is similar to the amounts

Attachment A to Jeffrey V. Brownfield's September 14, 2010 Letter
(continued)

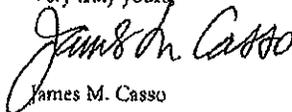
Jeffrey V. Brownfield, Chief
Division of Audits, California State Controller
September 9, 2010
Page 5

that the City anticipated receiving, taking into account the inflationary adjustments to the fees approved in Resolution No. 2007-31.

In sum, it appears to me, based on the information presently available, that in 2007, the City Council authorized two different ways to pay for sewer services—standby charges and property-related sewer service fee. With regard to both, it appears preliminarily that the City complied with the requirements of Proposition 218, to the extent that they applied to the City's action; as explained above, the standby charges are exempt. After approving both, the City elected to collect only sewer service fees. We do agree that confusing wording was used in the resolution approving the fees and in transmitting the City's request to the County Auditor-Controller to collect the fees. Despite that poor word choice, it appears that the City followed all procedural requirements for the approval of the sewer services fees, and that is the only sewer service levy that the City has collected since 2007. Thus, no refunds to property owners are required, as suggested in your letter. Indeed, a refund would actually result in an additional General Fund subsidy to those who use or have available to them sewer services, requiring those who do not use sewer services to pay for service to those who do and depriving others in the City of the services that could be funded by the moneys in the General Fund.

If you continue to be interested in this issue, the City will do everything in its power to assist you in investigating the background of the sewer service fees and standby charges, their nature, the manner of their calculation, their compliance with state law, and any other matter in which you might be interested. Please contact me or my partner, Sky Woodruff, if you have any questions about this letter.

Very truly yours,


James M. Casso

Attachments: Attachment 1—Resolution No. 89-23
Attachment 2—Resolution No. 92-33
Attachment 3—Resolution No. 2007-27
Attachment 4—Resolution No. 2007-31
Attachment 5—Notice of Sewer Service Fee and Public Hearing (2007)
Attachment 6—Sewer Cost Report (2007)
Attachment 7—Transmittal to County Auditor-Controller for 2007-08

cc: City Council
Los Angeles County Office of the Auditor-Controller



JOHN CHIANG
California State Controller

August 27, 2010

Pedro Carrillo
Interim City Administrator
City of Bell
6330 Pine Avenue
Bell, California 90201

Dear Mr. Carrillo:

My auditors have completed a review of direct assessments currently imposed on the property owners in the City of Bell. Previously, the auditors identified an unallowable assessment related to the city's pension obligations. In reviewing other direct assessments, the auditors have determined that the increased assessment imposed starting with fiscal year (FY) 2007-08 to current related to the Sanitation and Sewerage System District may also be unallowable.

The first time the City of Bell levied an assessment for the Sanitation and Sewerage System District was in 1989 (Resolution No. 89-28). The resolution specifically used the term "stand-by charge" in describing the purpose of the assessment. When the assessment was increased during FY 2007-08 (Resolution No. 2007-31), the resolution title referred to the increase as an upwardly adjusting rate while the body of the resolution referred to the engineering report with a title of "Sever Standby and Availability Charges."

The California Constitution, Article XIII D, section 6, subsection (b)(4), requires that sewer "standby" charges, whether characterized as charges or assessments, be classified as assessments and shall not be imposed without complying with the California Constitution, Article XIII D, section 4, which requires a vote of the property owners who would be affected by the assessment. City staff could not provide us with evidence that such a vote took place or that these are not standby charges. The estimated amount of the charges related to the increase is \$621,737 (see attached).

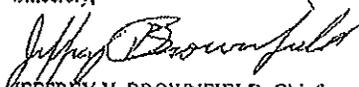
We request that you review this matter and provide us with documentation to support why this assessment should not be considered a standby charge. Please provide this information to us by the close of business, September 2, 2010.

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250-5874
SACRAMENTO 300 Capitol Mall, Suite 518, Sacramento, CA 95814 (916) 324-8907
LOS ANGELES 600 Corporate Pointe, Suite 1000, Culver City, CA 90230 (310) 342-5656

Pedro Carrillo
August 27, 2010
Page 2

If you have any questions please contact me at (916) 324-1696.

Sincerely,



JEFFREY V. BROWNFIELD, Chief
Division of Audits
California State Controller

JVB/sk

8821

Attachment

cc: Oscar Hernandez, Mayor, City of Bell

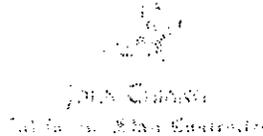
CITY OF BELL
SANITATION AND SEWERAGE SYSTEM DISTRICT ASSESSMENTS
For Fiscal Years 2007-08 Through 2009-10

<u>Fiscal Year</u>	<u>Allowable Assessments</u>	<u>Actual Assessments</u>	<u>Excess Assessments</u>
2009-10	\$ 136,151	\$ 349,606	\$ (213,455)
2008-09	\$ 136,151	\$ 339,081	\$ (202,930)
2007-08	\$ 136,151	\$ 341,503	\$ (205,352)
Total Excess Assessment			\$ (621,737)

<u>Fiscal Year</u>	<u>Allowable Assessment Rate</u>	<u>Actual Assessment Rate</u>	<u>Excess Assessment Rate For a Single Family Residence (Dwelling)</u>
2009-10	\$ 12.70	\$ 33.12	\$ (20.42)
2008-09	\$ 12.70	\$ 32.16	\$ (19.46)
2007-08	\$ 12.70	\$ 32.26	\$ (19.56)

Source: LA County Auditor Controller
City of Bell Resolutions and Engineer Reports

Bell/Bellassmnt/rates



September 2, 2010

Pedro Carrillo
Interim City Administrator
City of Bell
6330 Pine Avenue
Bell, California 90201

Dear Mr. Carrillo:

My auditors have completed a review of direct assessments currently imposed on the property owners in the City of Bell. Previously, the auditors identified an unallowable assessment related to the city's pension obligations that resulted in Bell property owners paying an estimated \$3 million in excessive taxes. In reviewing other direct assessments, the auditors have determined that the increased assessment imposed during Fiscal Year (FY) 2007-08 to present pertaining to the Sanitation and Sewerage System District is unallowable.

The City of Bell first levied an assessment for the Sanitation and Sewerage System District in 1989 pursuant to Resolution No. 89-28. The resolution referenced the assessment as a "standby charge." Subsequently, when the assessment was increased during FY 2007-08, Resolution No. 2007-31 referred to the increase in the resolution heading as an upward rate adjustment. The body of that resolution referred to the engineering report, which was titled "Sewer Standby and Availability Charges."

The California Constitution, Article XIII D, section 6, subsection (b)(4), requires that sewer "standby" charges, whether characterized as charges or assessments, be classified as assessments and shall not be imposed without complying with the California Constitution, Article XIII D, section 4, which requires a vote of the property owners who would be affected by the assessment. City staff could not provide us with evidence that such a vote took place and therefore, we have concluded that the increased assessment was not allowable. The estimated amount of the charges related to the increase for FYs 2007-08 through 2009-10 is \$621,737 (see attached).

On two separate occasions - once on September 1, 2010, and again this morning - you communicated to Jeffrey V. Brownfield, Chief of my Audits Division, that, after having the opportunity to review this matter since last Friday, you were in full agreement with our finding. However, during a subsequent conversation with Mr. Brownfield, you suggested that the property tax levy in question may not have required a vote of property owners and have requested more time to conduct additional research into the matter.

Attachment C to Jeffrey V. Brownfield's September 14, 2010 Letter
(continued)

Pedro Carrillo
September 2, 2010
Page 2

The County of Los Angeles Auditor-Controller's Office has informed us that any changes to FY 2010-11 property tax bills must be received no later than noon on September 10, 2010. I urge you to quickly complete your review so that, if the increased levy was indeed an allowable assessment, the City of Bell will have sufficient time to reduce the assessment for FY 2010-11. If necessary, this action should provide the Auditor-Controller with a new transmittal/summary, new CD (with the corrected file), and new City Council Resolution.

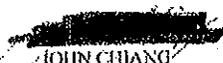
The Constitution does not contain a provision governing over-assessments for prior fiscal years. Therefore, if you conclude that there has been an over-assessment, the City can either refund the over-assessed amounts or to offset future assessments. Please notify us of the city's planned action regarding this matter.

Should you conclude that there was no over-assessment, please send to my office all documentation and empirical evidence upon which your conclusion is based. As you know, all documentation furnished, to date, by your office in response to our audit into this matter explicitly refer to the levy as a "standby charge," which requires a vote of the property owners.

We are planning to issue a final report of all findings related to our audit of the City of Bell, including this matter, later this month. Based upon the information provided by your research into this matter, we will include a final finding and recommendation.

If you have any questions please contact Jeffrey V. Brownfield, Chief, Division of Audits at (916) 324-1696.

Sincerely,


JOHN CHIANG
California State Controller

Attachment

cc: Oscar Hernandez, Mayor, City of Bell
Wendy Watanabe, Auditor-Controller, Los Angeles County
Robert Quon, Assessor, Los Angeles County
Mark Saladino, Treasurer, Los Angeles County
Arlene Barrena, Division Chief, Property Tax Division, Los Angeles County

CITY OF BELL
SANITATION AND SEWERAGE SYSTEM DISTRICT ASSESSMENTS
For Fiscal Years 2007-08 Through 2009-10

<u>Fiscal Year</u>	<u>Allowable Assessments</u>	<u>Actual Assessments</u>	<u>Excess Assessments</u>
2009-10	\$ 136,151	\$ 349,606	\$ (213,455)
2008-09	\$ 136,151	\$ 339,081	\$ (202,930)
2007-08	\$ 136,151	\$ 341,503	\$ (205,352)
Total Excess Assessment			<u>\$ (621,737)</u>

<u>Fiscal Year</u>	<u>Allowable Assessment Rate</u>	<u>Actual Assessment Rate</u>	<u>Excess Assessment Rate For a Single Family Residence (Dwelling)</u>
2009-10	\$ 12.70	\$ 33.12	\$ (20.42)
2008-09	\$ 12.70	\$ 32.16	\$ (19.46)
2007-08	\$ 12.70	\$ 32.26	\$ (19.56)

*Source: LA County Auditor Controller
City of Bell Resolutions and Engineer Reports*

Bell/Bellasmnrates

**Attachment C—
Controller Chiang's Letter to Pedro Carrillo
Dated September 15, 2010
Regarding Business License Taxes**



JOHN CHIANG
California State Controller

September 16, 2010

Pedro Carrillo
Interim City Administrator
City of Bell
6330 Pine Avenue
Bell, CA 90201

Dear Mr. Carrillo:

My auditors have completed a review of the business license taxes, which also includes rental business license taxes for the 2000 through 2010 calendar years. Our review noted that the city increased the amount for business licenses taxes in excess of 50% for more than 1,000 business owners in the city since the 2000 calendar year. The increases were made without voter approval as required under Article XIII C to the California Constitution which specifies, "No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote."

Additionally, the Bell Municipal Code clearly states that business license taxes are taxes for revenue generating purposes. Bell Municipal Code section 5.04.020 states:

The purpose of the provisions of this division is to prescribe a schedule of business license taxes, for revenue purposes only, for all businesses located within the city, in the amounts and manner as set forth hereinafter.

Monies collected from business license taxes are deposited in the city's General Fund and are available at the discretion of the city's management, subject to the approval of the city council, to fund any operation or activity within the city government. Therefore, we believe the increases were general tax increases and subject to voter approval.

It is not possible to quantify the specific amount of additional business license taxes collected as a result of the increase imposed without voter approval because more than 1,000 businesses are involved with varying tax rates. However, based on annual collection figures, we estimate the total to be over \$2.1 million for calendar years 2000 through 2010 (see attached).

Pedro Carrillo
September 16, 2010
Page 2

We request that you review this matter and take appropriate action to refund the excess business license taxes collected. Please provide us with your plan of action by the close of business, September 20, 2010.

If you have any questions, please contact Jeffrey V. Brownfield, Chief, Division of Audits, at (916) 324-1696.

Sincerely,

Original signed by

JOHN CHIANG
California State Controller

Attachment

cc: Oscar Hernandez, Mayor of the City of Dell
Jeffrey V. Brownfield, Chief
Division of Audits, State Controller's Office

CITY OF BELL
SCHEDULE OF UNALLOWABLE BUSINESS LICENSE TAXES COLLECTED BY CALENDAR YEAR
CALENDAR YEARS 2000 THROUGH 2010

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Total
Amount Business License Taxes Collected*	\$ 737,368	\$ 544,472	\$ 531,021	\$ 552,274	\$ 456,570	\$ 549,471	\$ 583,030	\$ 634,837	\$ 1,102,131	\$ 741,597	\$ 651,509	\$ 7,105,250
Allowable Taxes Collected	617,438	455,952	444,689	463,324	382,342	386,511	392,607	422,984	644,312	418,760	370,819	4,999,789
Unallowable Taxes Collected	\$ 119,930	\$ 88,520	\$ 86,332	\$ 88,950	\$ 74,228	\$ 162,960	\$ 190,423	\$ 211,853	\$ 457,819	\$ 322,837	\$ 280,690	\$ 2,105,461

Source: City of Bell Financial Records – Fiscal Year (FY) 2005-04 through FY 2009-10
 State Controller's Office Financial Reports – FY 1991-92 through FY 2002-03

*This Amount Includes Rental Business License Taxes.

**Attachment D—
Copy of Administrative Agreement**

ADMINISTRATIVE AGREEMENT

This Administrative Agreement ("Agreement"), is made and entered into this 1st day of March, 2010, by and between the CITY OF BELL ("City") and [REDACTED] ("Employee"), [REDACTED] for the City of Bell.

NOW, THEREFORE, CITY AND EMPLOYEE agree to the following:

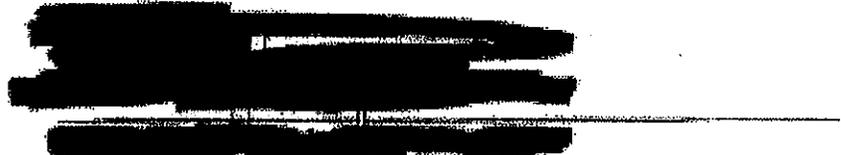
1. Employee shall be entitled to a cash advance, from the City, an amount not to exceed \$130,000 (One Hundred Thirty Thousand Dollars).
2. The Agreement is subject to the following provisions:
 - a) Employee assigns to City any rights under the Agreement or Federal, State or local law to collect from wages earned up to the unpaid balance plus accrued interest;
 - b) Repayment of the cash advance shall bear interest that shall compound biweekly and accrue at a rate equal to the annual interest rate of the Local Agency Investment Fund (LAIF) administered by the California State Treasurer for the quarter prior to the disbursement of the cash advance. The interest rate to be used after disbursement of the advance shall be the LAIF interest rate prior to the quarter of the payment date;
 - c) The term of the advance shall commence on the date of disbursement of the cash advance and shall continue until the date the repayment is fully satisfied by payment as provided herein;
 - d) Payment of the loan and the accumulated interest should be paid in full to the City no later than May 28, 2010;
 - e) In the event of Employee's termination, repayment of the advance outstanding shall immediately become due and payable;
 - f) In the event of Employee's termination, if repayment of the advance is not fully satisfied by the employee's the wages earned; employee should obtain a conventional loan to meet the aforementioned obligation to the City;
- 3) City and Employee hereby acknowledge and agree that this Agreement is in full force and effect. All capitalized terms not specifically defined herein, shall have the same meaning ascribed to them in the Agreement.

IN WITNESS WHEREOF, the parties have caused this Administrative Agreement to be executed as follows:

"City"
CITY OF BELL, CALIFORNIA

By: 
Robert A. Rezo, Chief Administrative Officer

"Employees"



**Attachment E—
City's Response to Draft Audit Report**



City of Bell

September 20, 2010

Jeffrey V. Brownfield, Chief
Division of Audits
California State Controller
Post Office Box 942850
Sacramento, CA 94250-5874

Re: Administrative and Internal Accounting Controls Audit/CA (SCO)

Dear Mr. Brownfield:

This letter is in response to the California State Controller's Audit Report concerning the City of Bell's ("the City") Administrative and Internal Accounting Controls ("Audit Report"), and correspondence from your office on September 14 and September 15, 2010, concerning the City's standby charges for sewer services, and the City's business license tax.

Audit Report Findings 1, 2 and 3:

The City appreciates the Controller's review of the issues identified in the Audit Report, and looks forward to continue working with your office to ascertain the scope of these issues and to address them as necessary.

Finding 3: Sewer Service Fees:

The City appreciates the Controller's additional review of the City's fees for sewer service and sewer standby charges. In light of your September 14, 2010 letter, we are continuing to investigate one aspect of the matter, which is addressed in more detail below. The City continues to disagree with your overall conclusion that it improperly increased the standby charges in 2007, and that a refund of \$621,737.00 is warranted. Some refund may be appropriate to owners of property without sewer connections, and the City will make such refunds, based on the conclusion of its investigation of this matter.

Your September 14, 2010 letter identifies portions of the wording of the notice for the adoption of the sewer service fees adopted by Resolution No. 2007-31. First, the notice refers to "sewer rate adjustments," and your letter reasonably notes that an "adjustment" could only be made to an already existing rate. To clarify the City's response its September 9, 2010 letter, it does appear that the authors of the notice and Resolution No. 2007-31

Jeffrey V. Brownfield, Chief
Division of Audits
California State Controller
September 20, 2010
Page 2

made errors in drafting the documents and may have misunderstood the difference between standby charges and service fees. Moreover, those errors do create ambiguities that raise valid questions about the validity of sewer service fees. The issue, the City believes, is the lawfulness of the adoption of the service fees, which depends on whether the notice and the process of adopting the fees met the requirements of Article XIII D, Section 6 of the California Constitution. The City's opinion is that it substantially complied with those requirements.

The substantive requirements for a notice of a city's intent to adopt a new or increased service fee are contained in Article XIII D, Section 6(a) (1). The notice of the adoption of the City's sewer service fees contains all of that information. It mistakenly refers to the adoption of the fee as an "adjustment" rather than as the adoption of a new fee. The City does not know the reason for the mistake, and any assertion about the reason would be speculation. That mistake did not, however, deprive potential ratepayers of the information required by Section 6(a) (1). The notice informed them of the amount of the proposed fee, its purpose, and the basis upon which it was calculated, along with the date, time, and location of the hearing. Thus, the notice met the legal requirements and did not mislead potential ratepayers about any relevant aspect of the proposed fees. Whether it was a new fee or an increase of an existing fee was not legally relevant, and the identified misstatement did not, in the City's opinion, alter the lawfulness of the process that the City followed in adopting the fees.

Your September 14, 2010 letter questions whether the cost report required by Section 6 was available to the public for 45 days before the hearing and notes that its calculation of costs is the same as the calculation in the Engineer's Report for the standby charges. Regarding the first point, the only evidence that your letter cites is that it is dated the same day as the public hearing on the service fees. On its own, the City finds that fact ambiguous. Your letter does not recognize that the amounts of the fees proposed in the notice are the same as the amounts in the cost report. It seems highly unlikely to the City that the City Engineer would have calculated the fees for the purpose of the notice but not have completed the cost report and made it available to the public. Moreover, as noted in our September 9, 2010 letter, Resolution No. 2007-31 specifically recites that the report was available for the required 45-day period.

The City does not believe that it is problematic that the cost report of the sewer service fees has an identical calculation of costs to the Engineer's Report for the standby charges. Since both were intended to calculate the cost of sewer service, one would expect them to be similar. There are significant differences between the two, however. The 2007 Engineer's Report leaves the standby charges at their historical levels, whereas the cost report proposes to set service fees at a higher amount. The City does recognize the confusion resulting from the documents for the service fees incorrectly referring to the fees as an "increase," but it continues to believe that that wording alone does not undermine the lawfulness of the fees themselves, since it appears to have conformed to the required process for their adoption. It

Jeffrey V. Brownfield, Chief
Division of Audits
California State Controller
September 20, 2010
Page 3

is more problematic that, in subsequent years, the annual authorization of the standby charges set those at the same rates as the sewer services fees, which are addressed below.

Your letter next questions (1) why, if the City adopted a sewer service fee in 2007, it also adopted resolutions in 2008, 2009, and 2010 authorizing and directing the levy of the standby charges; and (2) why, if the City did impose a new sewer service fee in 2007, property owners without sewer hookups are being charged, since the resolutions authorizing the levy of the standby charges state that the charge is charged against properties using the service and those for which the service is available. Two things should be kept in mind when considering those points. First, there is no reason that a city cannot maintain both a fee for sewer service and a standby charge, as long as property owners are not required to pay twice for the same things and all other legal requirements are met. Indeed, there would be nothing unusual about charging a service fee for owners of property with sewer hookups and a standby charge for those without a hookup but who benefit from the availability of the service. Second, as you know, to maintain the authority to levy standby charges, the City Council must authorize it annually; there are no similar requirements for sewer service fees.

It appears to the City that your September 14, 2010 letter takes the position that the City must be either levying sewer service fees or standby charges, and does not seem to recognize the possibility that the City is levying both. The City's September 9, 2010 letter, based on the information available then, concluded that the City had substituted the sewer service fees for the standby charges. After considering the points made in your September 14, 2010 letter, it may be the case that the City is levying both.

If the City has been levying both sewer service fees and standby charges since 2007, then the only problem that it sees is that it may have been levying the same amounts for the standby charges as for the service fees. As your September 14, 2010 letter points out, the amounts of the standby charges approved for 2008-09, 2009-10, and 2010-11 are the same as the service fees. At the time of writing our September 9, 2010 letter, we spoke with the City Engineer about whether the sewer service fees were being charged to all properties in the City or only those receiving sewer services. We understood at that time that it was only being charged to properties receiving service, but we are now investigating the matter further. If the City concludes that properties without sewer hookups have been charged standby charges in the same amount as the sewer service fees, then the staff will recommend to the Council that appropriate corrective action is taken to refund those property owners for the difference between the allowable standby charge amounts and the service fees amounts. The staff will also prepare documents for the service fees and the standby charges in the future to clarify that the City is levying the fees on properties using sewer services and standby charges on properties without sewer hookups.

The City genuinely appreciates the work of the Controller's Office in auditing the City's finances. In light of the allegations of the previous administrations actions, it has been a great benefit to the City and its residents to have an outside agency review the City's

Jeffrey V. Brownfield, Chief
Division of Audits
California State Controller
September 20, 2010
Page 4

revenues and expenditures. The City specifically thanks the Controller for identifying this issue so that it can further investigate whether some property owners are due refunds. As explained above, although the adoption of the sewer service fees was incorrectly described as an increase of an existing fee—and it may be that the engineers who prepared the documents did not sufficiently understand the difference between standby charges and service fees—the process for adopting it appears to have conformed to the requirements of Article XIII D, section 6. Nevertheless, the City does believe that there are additional questions about the standby charges and service fees that must be answered, and it will continue to investigate. If it finds that property owners were charged a fee or standby charge in excess of what was lawfully permitted, it will take steps to provide refunds or future credits to the affected property owners. The City's opinions in this response are based on the documents presently available; its ultimate conclusions and the actions that it proposes to take in the future regarding sewer service fees and standby charges depend in part on the outcome of its ongoing investigation.

Finding 3: Business License Tax:

Your September 15, 2010 letter regarding business license taxes states that, since 2000, the City has increased those taxes without voter approval, in violation of Article XIII C, Section 2(b) of the California Constitution (Proposition 218). The City disagrees that the increases violated Article XIII C, Section 2(b); however, the City is concerned that the increases may have violated Government Code Section 53723, which is a portion of Proposition 62. The City is investigating whether the increases were in violation of that section, and if so, what the appropriate remedy is.

As the Controller's Office must have seen during its investigation of business license taxes, the current version of the tax was enacted and codified as Chapter 5.08 of the Bell Municipal Code in 1990 or 1991. (We are attempting to find the original ordinance.) Section 5.08.030 of the Code provides for the automatic annual adjustment of the tax rates by CPI, as defined in that section. The City has adjusted the tax rates annually since then, including from 2000 to the present. Under Government Code Section 53750(h)(2)(A), voter approval was not required for those inflationary adjustments, however, because that section states that a schedule of inflationary adjustments approved before the date of adoption of Proposition 218 is specifically not considered a tax "increase" that requires voter approval.

In reviewing your letter, the City became concerned that, if section 5.08.030 were newly added to the business license tax in 1990 or 1991 (i.e. the same provision for automatic inflationary adjustments did not exist in the previous version of the ordinance) and not approved by the voters, then it may violate Section 53723. As you are no doubt aware, for many years after the approval of Proposition 62, there was litigation over its constitutionality. In 1991, an appellate court held that Proposition 62 was unconstitutional. *See City of Woodlake v. Logan*, 230 Cal. App. 3d 1058 (1991). As a result of that decision, many cities approved new or increased taxes without voter approval. If the City added section

Jeffrey V. Brownfield, Chief
Division of Audits
California State Controller
September 20, 2010
Page 5

5.08.030 in 1991 without voter approval, it may have done so in reliance on that decision. Of course, the California Supreme Court ultimately upheld Proposition 62. See *Santa Clara Local Transportation Authority v. Guardino*, 11 Cal. 4th 220 (1995).

The *Guardino* case left open the question of what the appropriate remedy and the potential liability are for cities that raised taxes without voter approval while the courts were deciding Proposition 62's constitutionality. In 1997, in *McBrearty v. City of Brawley*, 59 Cal. App. 4th 1441 (1997), the appellate court held that a city must stop collecting such a tax until voters approve it, or stop collecting the tax altogether. Four years later, in *Howard Jarvis Taxpayers Association v. City of La Habra*, 25 Cal. 4th 809 (2001) the California Supreme Court held that the statute of limitations to challenge a tax adopted in violation of Proposition 62 is renewed each time a city collects it. The court added that, in the absence of another statute of limitations, the three-year period in Code of Civil Procedure Section 338(a) applies to both injunctive relief and for refunds. [Note that Bell has a claims ordinance (Municipal Code section 2.88.030(B)) that requires the presentation of claims within one year, as provided for the Government Claims Act.] Additionally, the appellate court ruled in *Ardon v. City of Los Angeles* (May 28, 2009, B201035) that class claims for a tax refund are not permitted under the Government Claims Act.

In light of the foregoing, the City is investigating whether the adoption of Section 5.08.030 of the Municipal Code violated Proposition 62. Depending on the outcome of that investigation, the City will evaluate the extent to which local business owners are entitled to refunds and the best method for making those refunds. The City thanks the Controller's Office for bringing this issue to its attention so that it can ensure that local businesses have not been taxed in excess of the legal limit or provide those businesses with refunds, in the event that the business license taxes exceed the maximum allowable rates. The City's opinions in this response are based on the documents presently available; its ultimate conclusions and the actions that it proposes to take in the future regarding sewer service fees and standby charges depend in part on the outcome of its ongoing investigation.

The City will continue its investigations of the sewer service fees and the City's business license tax. Should you have any further questions regarding these matters, please do not hesitate to contact me.

Sincerely,

Pedro Carrillo
Interim Chief Administrative Officer

cc: The Honorable Mayor Oscar Hernandez and Councilmember's

Attachment F— SCO's Comments

Findings 1 and 2

The city did not specifically comment on Finding 1 or Finding 2, except to state, "The City appreciates the Controller's review of the issues identified in the Audit Report, and looks forward to continue working with your office to ascertain the scope of these issued and to address them as necessary."

Consequently, our findings and recommendations to these findings remain unchanged.

Finding 3—Sanitation and Sewerage Standby Charges

The city's position is that it is levying two assessments/fees, a sewer service fee and a standby charge. However, the city's resolutions and engineering cost reports for the Sanitation and Sewerage System District for the prior 21 years references only standby charges.

Additionally, the city states that "... and it may be that the engineers who prepared the documents did not sufficiently understand the difference between standby charges and service fees. . . ." A licensed engineer should know the difference between a standby charge and a sewer service fee. The city's licensed engineer's opinion fully supports that it is a standby charge.

Our finding remains as stated.

Finding 3—Business License Tax

The city disagrees with our finding and denies violating Article XIII C, section 2(b) of the California Constitution. The city claims that the business license taxes increased annually by the consumer price index from 2000 to present. However, based on our review, the business license taxes did not increase annually until 2005. Therefore, this was a tax increase which required a majority vote of the residents of the City of Bell.

Our finding remains as stated.

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>

S11-SPA-001

City Of Bell Staff Report

DATE: January 27, 2011
TO: Mayor and Members of the City Council
FROM: Pedro Carrillo, Interim Chief Administrative Officer
BY: James M. Casso, Interim City Attorney
SUBJECT: Employer "Pick-Up" – Revenue Ruling 2006-03

BACKGROUND:

CALPERS Circular Letter No 200-049-08, issued on October 3, 2008, advised employers of Revenue Ruling 2006-43 concerning the pick-up of employee contributions to California Public Employees Retirement System (CalPERS), and of actions that an employer may be required to take before December 31, 2008 to ensure compliance with pick-up requirements.

Revenue Ruling 2006-43 provides, in general, that an employee contribution will not be treated as "picked-up" under Internal Revenue Code (IRC) 414(h) (2) unless:

1. The employer specifies that the contributions, although designated as employee contributions, are being paid by the employer (this action must be memorialized in writing); and
2. The employer does not permit participating employees to opt out of the pick-up or to receive the contributed amounts directly instead of having them paid the employer to the plan.

IRC Section 414(h) (2) allows public agencies and school employers to designate required employee contributions as being "picked-up" by the employer and treated as employer contributions for tax purposes. The effect of a pick-up is to defer tax on employee contribution amounts until the member retires and receives retirement benefits, or separates from employment and takes a refund of contributions.

CalPERS has notified the City that the City must adopt a resolution in accordance with Revenue Ruling 2006-43 to maintain CalPERS compliance.

RECOMMENDATION

It is recommended that the City Council adopt Resolution 2011-03 to recognize the Employer Paid Member Contributions (EPMC) in compliance with Revenue Ruling 2006-43.

1560862.2

RESOLUTION 2011-03

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL,
CALIFORNIA APPROVING THE EMPLOYER PAID MEMBER
CONTRIBUTIONS**

WHEREAS, the City Council of the City of Bell has the authority to implement Government Code Section 20691; and

WHEREAS, the City Council of the City of Bell has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City a Resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the City of Bell has identified the following conditions for the purpose of its election to pay EPMC:

- This benefit shall apply to all employees of miscellaneous employee group # 70002 and safety employee groups 75001 and 75101.
- This benefit shall consist of paying eight percent (8%) for miscellaneous employee group # 70002 and nine percent (9%) for safety employee group # 75001 and 75101 respectively.
- The effective date of this Resolution shall be September 20, 2010.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the City of Bell elects to pay EPMC, as set forth above.

[RECORD OF VOTE AND SIGNATURES ON FOLLOWING PAGE]

APPROVED AND ADOPTED by the City Council of the City of Bell at a regular meeting held on the 27th day of January, 2011.

Oscar Hernandez, Mayor

ATTEST:

Rebecca Valdez, City Clerk

I, Rebecca Valdez, City Clerk of the City of Bell, California, certify that the foregoing Resolution No. 2010-37 was adopted by the City Council of the City of Bell at a regular meeting held December 13, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Rebecca Valdez, City Clerk

1560873.2

City of Bell Agenda Report

DATE: January 27, 2011

TO: Mayor and Members of the City Council

FROM: Pedro Carrillo, Interim Chief Administrative Officer

SUBJECT: Approval of Change Order No. 4 – Rancho San Antonio/Bell Sports Complex Off-Site Improvements at Chanslor Ave. and Service Rd. – Project Account No. 50-521-1004-0235

RECOMMENDATION:

That the City Council accept and authorize Change Order No. 4 from Shawnan Engineering Contractors (“Shawnan”) of Downey, California, for the Rancho San Antonio/Bell Sports Complex off-site improvements on Chanslor Drive and Florence Service Road in an amount not to exceed \$90,000.00. Funds for the proposed change order will come from the City’s general obligation bonds, it is anticipated that \$78,000.00 will be allocated for construction and \$12,000.00 will go toward administration, inspection and construction surveying by City/Consultant personnel.

BACKGROUND:

In November of 2008, the City approved a contract with Shawnan for the off-site improvements at the Sports Complex. These improvements have included traffic signal upgrades, Walker Avenue widening, storm drain relocation, and paving on Florence Avenue between the 710 freeway and the Los Angeles River. The current contract has not been finalized because several improvements remain to be completed. The original contract amount was \$634,619.00. Due to change orders, the current contract expenditures are \$753,792.00.

The proposed off-site improvements are necessary to correct a serious drainage condition at the corner of Chanslor Drive and the Florence Avenue Service Road.

RECOMMENDATION:

That the City Council:

1. Accept and authorize the Change Order No. 4 with Shawnan Engineering Contractors in an amount not to exceed \$90,000.00 for the off-site improvements at Chanslor Drive and Florence Road, and the use of general obligation bond funds to fund the change order.

ATTACHMENTS

1. Change Order No. 4 from Shawnan Engineering Contractors
1579387.3

SHAWNAN JOB #211

C/O Bell - Chansoir Ave. PCCO

11/9/2010

Item #	Description	QTY	Unit of Measure	Unit	Extension
1	3" AC over 6" CMB	2,400	SF	\$ 8.95	\$ 21,480.00
2	Full Dpth AC 12"	285	SF	\$ 11.60	\$ 3,306.00
3	8" Curb & Gutter (A2)	80	LF	\$ 30.25	\$ 2,420.00
4	WCR (Curb Ramp)	1	EA	\$ 2,450.00	\$ 2,450.00
5	Modified WCR (Curb Ramp)	1	EA	\$ 2,550.00	\$ 2,550.00
6	Driveway Approach	275	SF	\$ 7.82	\$ 2,150.50
7	4" Sidewalk	375	SF	\$ 5.95	\$ 2,231.25
8	Not used		SF	\$ -	\$ -
9	6' Cross Gutter	310	SF	\$ 7.94	\$ 2,461.40
10	Striping	1	LS	\$ 350.00	\$ 350.00
11	Remove Curb & Gutter	200	LF	\$ 6.55	\$ 1,310.00
12	Remove Sidewalk	1,250	SF	\$ 2.45	\$ 3,062.50
13	Adjsut To Grade M.H. / W.V.	4	EA	\$ 600.00	\$ 2,400.00
14	Remove Exist Street Struct. Sect.	1,800	SF	\$ 4.25	\$ 7,650.00
15	Curb 4" hole & drain	1	EA	\$ 250.00	\$ 250.00
16	8" Curb & Gutter (A3)	45	LF	\$ 31.25	\$ 1,406.25
17	PCC Alley intersection	310	SF	\$ 7.98	\$ 2,473.80
18	Modbilization/Demobilization	1	LS	\$ 4,200.00	\$ 4,200.00
19	Traffic Control	1	LS	\$ 980.00	\$ 980.00
20	BMP/SWPPP Implementation	1	LS	\$ 2,975.00	\$ 2,975.00
21	SD Connection (approx. 25' RCP w/collar & 7' CB)	1	LS	\$ 11,894.00	\$ 11,894.00

Grand Total \$ 78,000.70

City of Bell Agenda Report

DATE: January 27, 2011
TO: Mayor and Members of the City Council
FROM: Pedro Carrillo, Interim Chief Administrative Officer
SUBJECT: Approval of Facility Builder Invoices – Rancho San Antonio/Bell Sports Complex

RECOMMENDATION:

Approval of invoices from Facilities Builders and Erectors, Inc. for construction services at the Rancho San Antonio/Bell Sports Complex (“Sports Complex”) in the amount of \$475,951.00, for the period between June and September 2010. Funds for this payment will come from the General Obligation Bond Proceeds.

BACKGROUND:

Facility Builders began working on the Sports Complex in April 2010, however, Staff put the project on hold in order to provide the City Council with an opportunity to review all aspects of this multi-million dollar project. Facility Builders commenced construction and was paid twice for work accomplished from April and May of 2010. There have been four (4) invoices from June thru September that have not been paid and are pending City approval for work accomplished.

During the construction period, the City Engineer attended bi-weekly meetings and reviewed the construction at the site. The construction work provided pursuant to Facility Builders’ invoices is as follows: clearing, grading, perimeter wall construction and other miscellaneous items. The City Engineer has been requested to review the invoices as to their validity, accurateness and provide a recommendation for payment. This effort has now been accomplished and the recommendation is made to approve the invoices.

RECOMMENDATION

That the City Council:

1. Approve Invoice No. 63276 in the amount of \$177,481.00
 2. Approve Invoice No. 63298 in the amount of \$251,890.00
 3. Approve Invoice No. 63308 in the amount of \$ 31,903.00
 4. Approve Invoice No. 63329 in the amount of \$ 14,677.00
- TOTAL \$475,951.00

ATTACHMENTS

1. Project Status and Pictures
2. Invoices 63276, 63298, 63308, and 63329

1579413.3

94

Rebecca Valdez

From: Scott Supernaugh [ssupernaugh@facilitybuilders.com]
Sent: Tuesday, November 23, 2010 2:09 PM
To: cao2; Carlos Alvarado
Cc: 'Ken Thomson'
Subject: RE: San Antonio Plaza Project Status

Gentlemen, we understand today is the final day for the submission of our outstanding invoices for the Council meeting in December. Ken and I are available if you have any questions or issues.

Scott Supernaugh - 714-287-7182

Ken - 714-287-9916

From: Ken Thomson [<mailto:kthomson@facilitybuilders.com>]
Sent: Tuesday, November 02, 2010 11:53 AM
To: cao2@cityofbell.org
Subject: San Antonio Plaza Project Status

Hi Pedro,

We have been the Construction Manager for Bell on the Sports Complex project that had "morphed" into the Rancho San Antonio Plaza and Sports Center.

As you know, we have worked diligently with Carlos Alvarado and other staff members since July to support and protect the City's interests, completing preliminary residential wall work to ensure there were no left open risk issues and secure the property for the near term future.

We have submitted invoices for our work in June through September. We have worked with staff to put background and context for all the work efforts that have gone into the project, so documentation was very clear on the work efforts performed and services provided.

We had been looking forward to being a part of the November 1, 2010 Agenda for review and approval. A number of these costs now go back 5-months. Based on conversations and assurances with staff we have made ourselves available as needed to resolve the matter and have cooperated with every request.

We are surprised and disappointed to learn we were not on the agenda. I would now like to know what the plan is for the payment of these invoices.

I would appreciate a response so that I can inform the network of creditors on the project, including consultants, suppliers, subcontractors, vendors as to the current disposition.

Pedro, I know you have a significant set of challenges in front of you and it appears you are chewing through them with patience and determination. We have offered and continue to offer our support to address any issues that you or team may have, but at the same time I ask that our issues be acknowledged and addressed as well.

I look forward to hearing from you.

Respectfully,

Ken Thomson

Cell(714)287-9916

Facility Builders & Erectors, Inc.



Kenneth B. Thomson
President

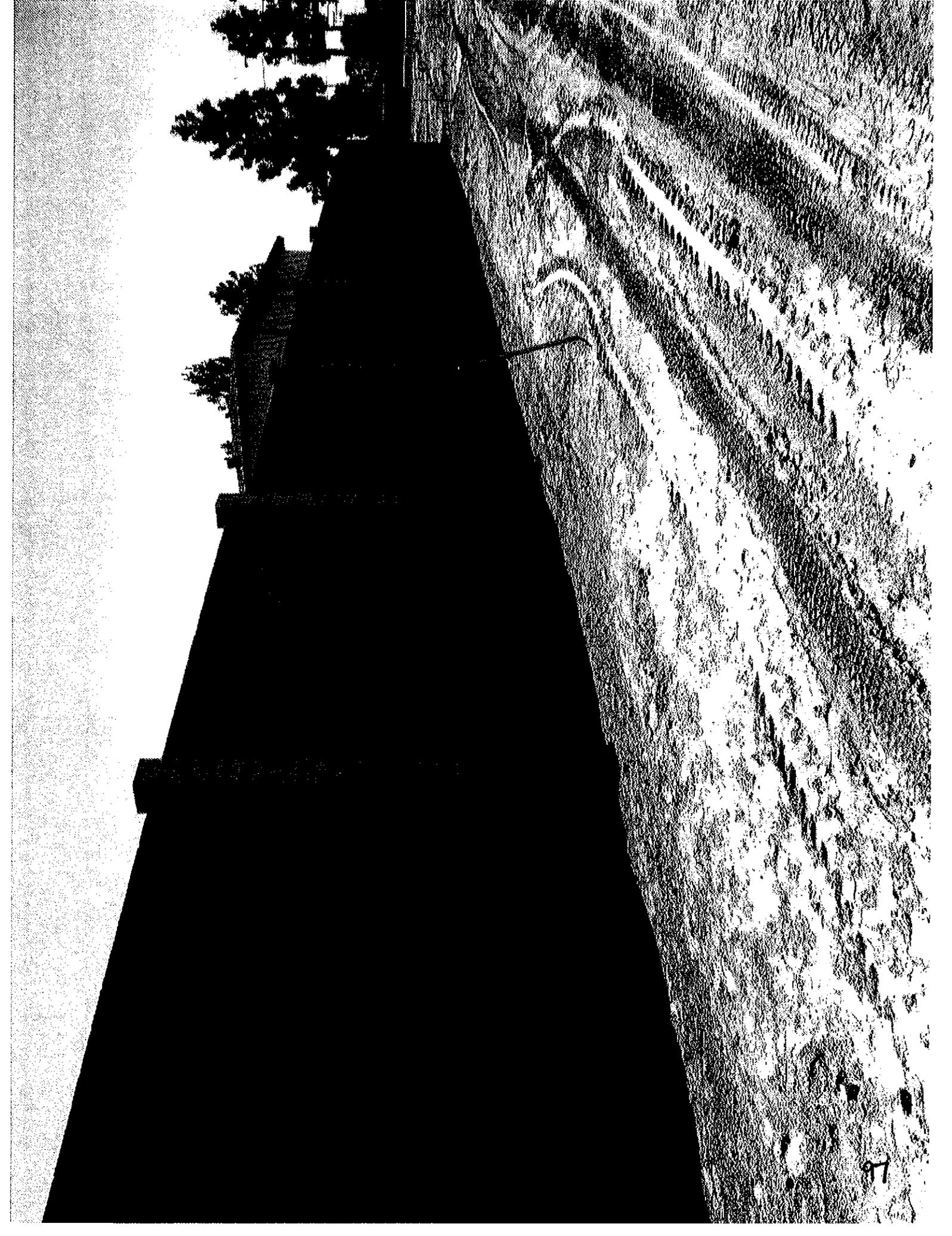
3940 East Mira Loma Ave
Anaheim, California. 92807

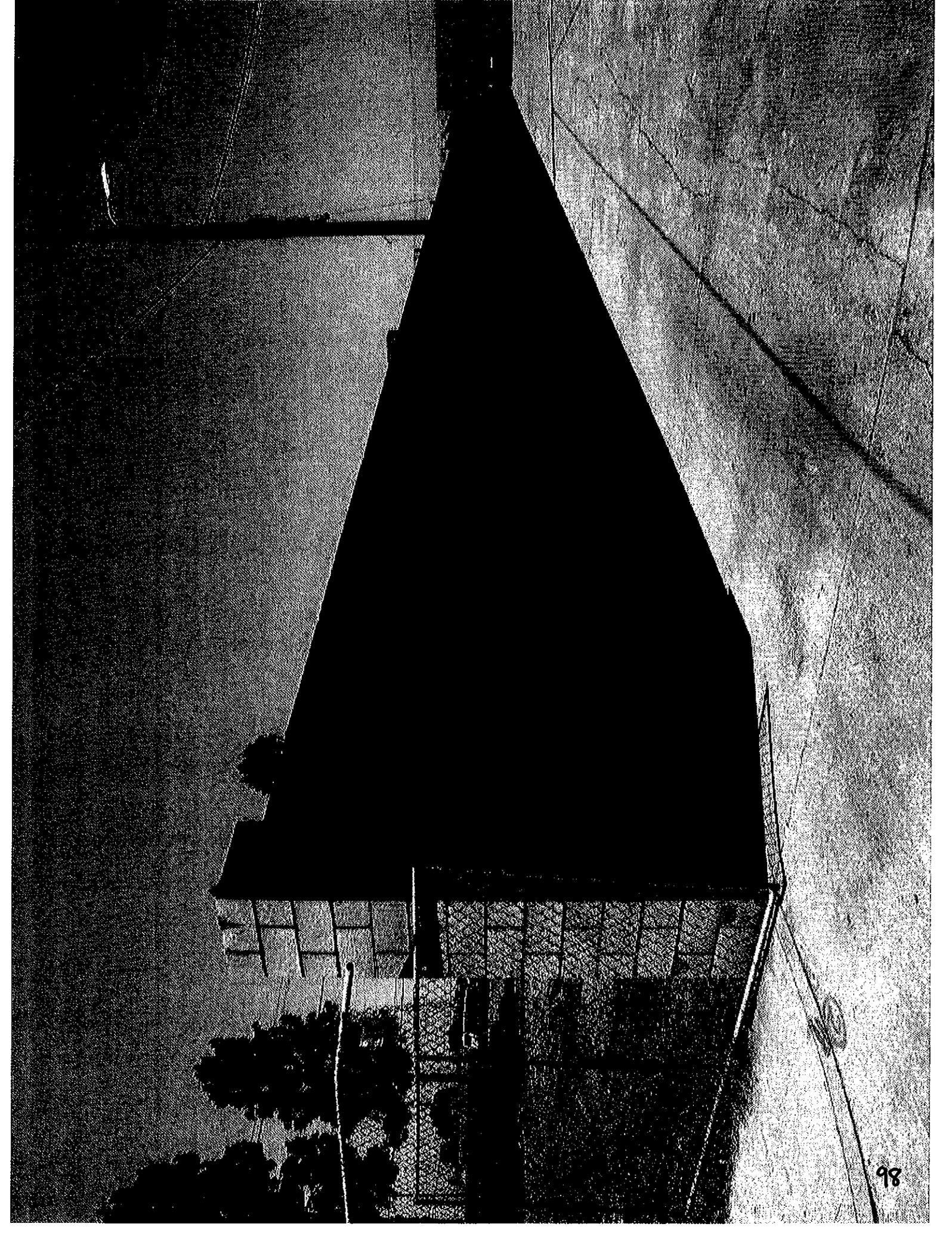
Phone: (714) 577-8060

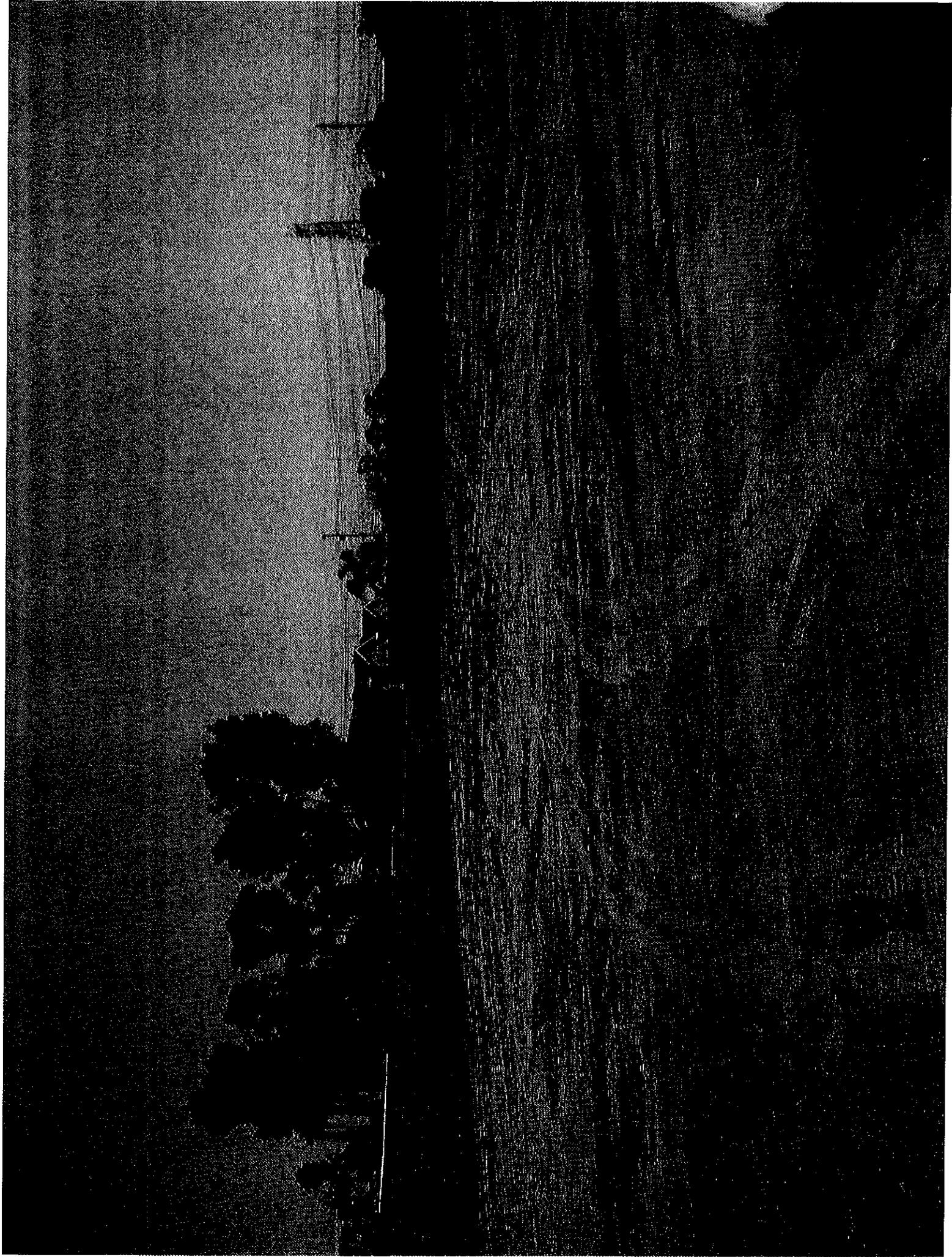
Fax: (714) 577-8064

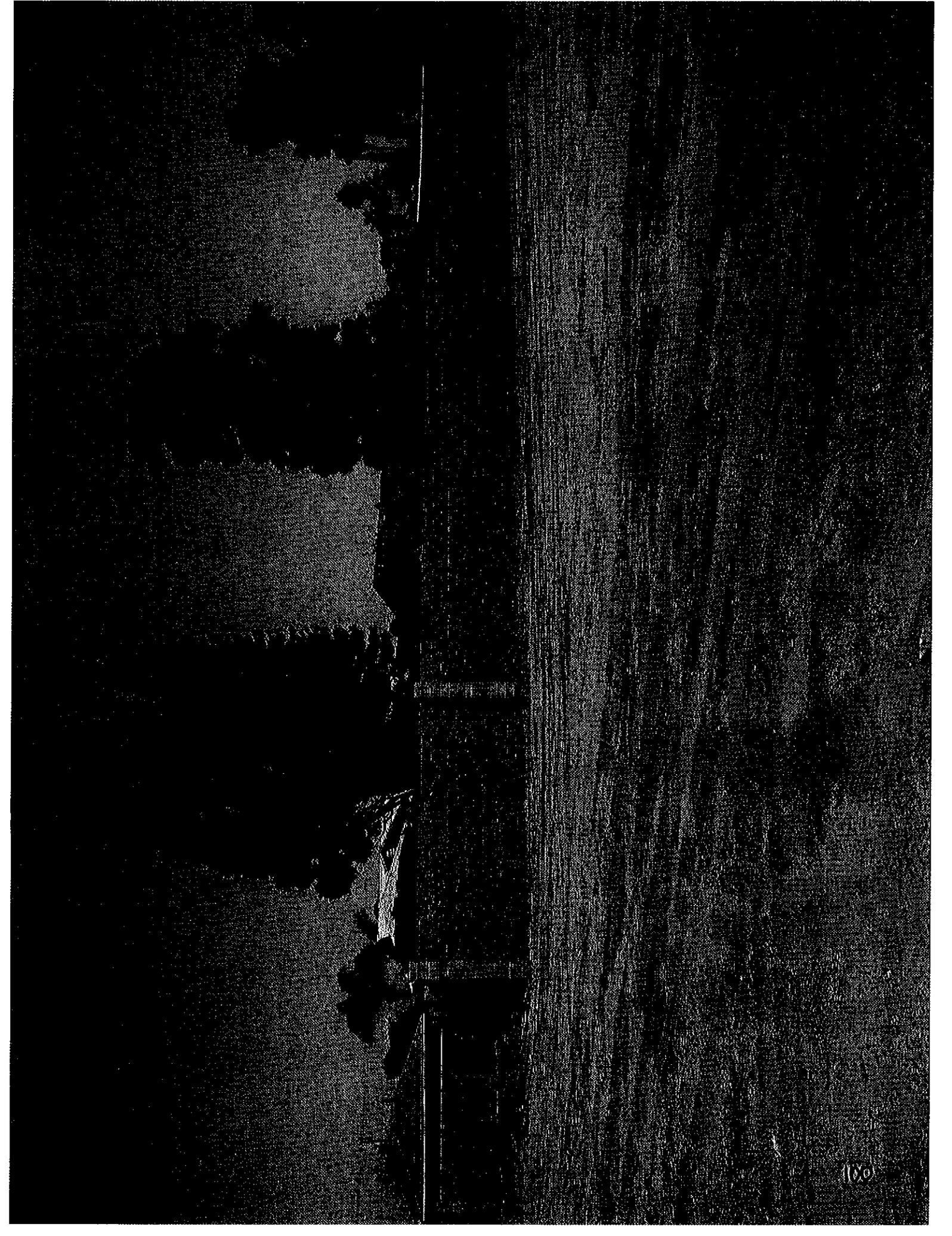
<http://www.facilitybuilders.com>

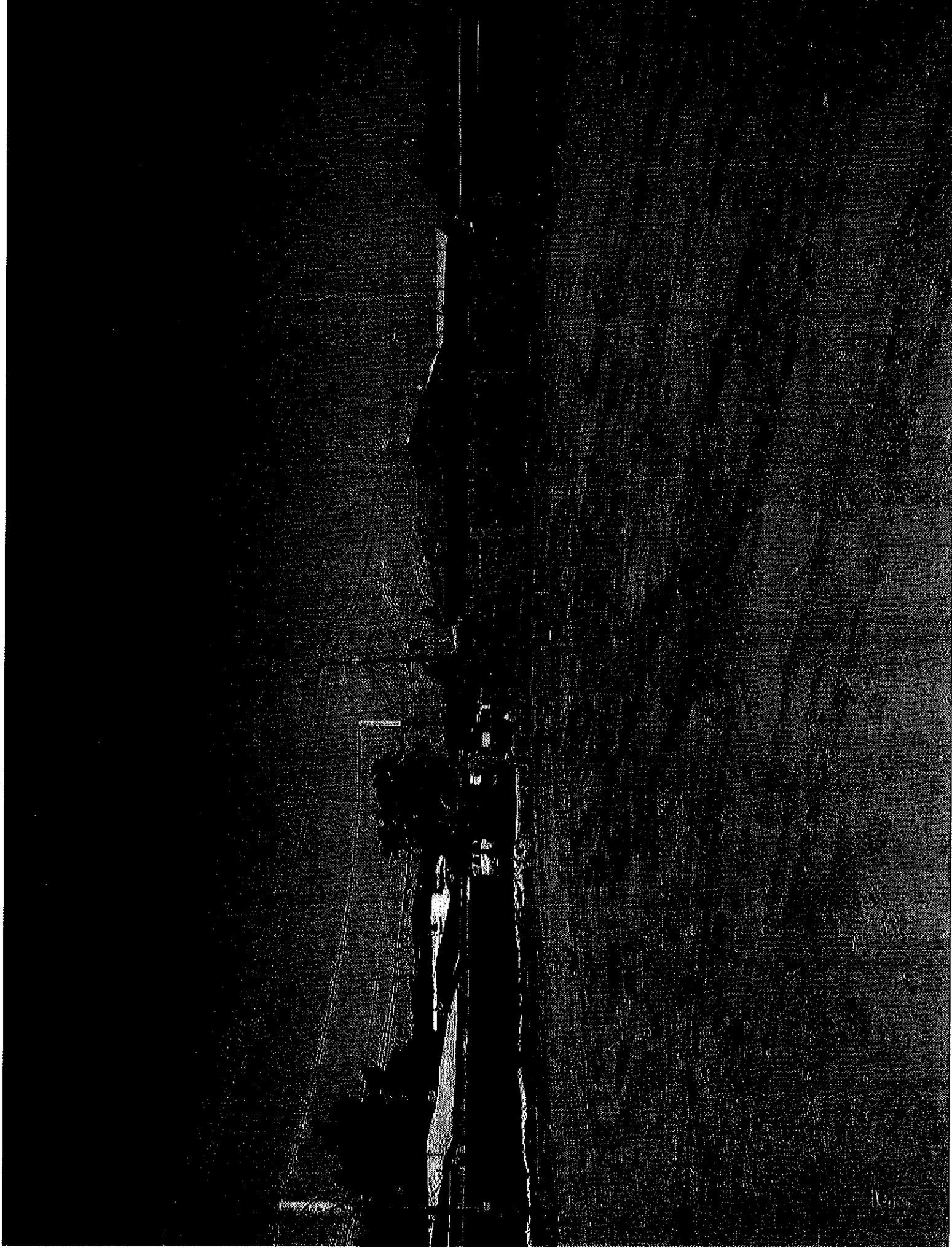
Concept to Completion











City of Bell Agenda Report

DATE: January 27, 2011
TO: Mayor and Members of the City Council
FROM: Pedro Carrillo, Interim Chief Administrative Officer
SUBJECT: Approval of Richard Fisher and Associates (RFA) Invoice – Rancho San Antonio/Bell Sports Complex

RECOMMENDATION:

That the City Council approve Invoice No. 3024, in the amount of \$45,265.78, from Richard Fisher and Associates, for design services for the Rancho San Antonio/Bell Sports Complex (“Sports Complex”) project, rendered in July 2010. Funds for this payment will come from General Obligation Bond Proceeds.

BACKGROUND:

Richard Fisher and Associates (“RFA”) was selected to provide the City with architectural services for the City’s Sports Complex. RFA provided architectural services through July of 2010, in the amount of \$45,265.78. Staff put the Sports Complex project on hold in order to provide the City Council with an opportunity to review all aspects of this multi-million dollar project.

It was requested that the City Engineer review RFA’s invoices and provide a recommendation for payment. The attached invoice from RFA is indicative of the hours as well as the architectural consultants who participated in this effort. The City Engineer believes the invoice is reasonable and recommends payment by the City. The City previously approved RFA’s hourly rates and paid invoices for similar services on Sports Complex project.

RECOMMENDATION

That the City Council:

1. Approve invoice No. 3024 in the amount of \$45,265.78

ATTACHMENTS

Copy of Invoice from RFA No. 3024 in the amount of \$45,265.78
Copy of E-Mail Memo dated 8/4/10 from Carlos Alvarado, P.E., City Engineer

1579434.3



Richard
Fisher
Associates

ASSOCIATES

Tax ID: 04-3590791

Invoice

July 30, 2010

Invoice #: 3024

Project #: 031-001

Bill To:

Robert A. Rizzo, Chief Admin. Officer
City of Bell
6330 Pine Avenue
Bell, CA 90201

For: Rancho San Antonio Plaza & Activity Center

Professional Services for the period ending: July 30, 2010

Consultant Coordination/Proj Mgmt

<u>Professional Personnel</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Principal Landscape Architect Dick Fisher	16.50	\$ 160.00	\$ 2,640.00
Total Labor:	16.50		\$ 2,640.00

Plaza Revisions

<u>Professional Personnel</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Principal Landscape Architect Dick Fisher	50.50	\$ 160.00	\$ 8,080.00
Associate Stephen Schwartz	113.00	\$ 120.00	\$ 13,560.00
CADD Operator II David Corral	78.50	\$ 85.00	\$ 6,672.50
Word Processor Taylor Smith	3.50	\$ 70.00	\$ 245.00
Total Labor:	245.50		\$ 28,557.50

If you have any questions regarding this invoice, please contact us immediately

Consultants

Sub Consultants	\$	<u>9,451.64</u>
Total Consultants:	\$	9,451.64

Reimbursables

Mileage	\$	202.40
Office Supplies	\$	65.55
Postage & Delivery	\$	32.78
Printing	\$	<u>75.91</u>
Total Reimbursables:	\$	376.64

Construction Support Services

<u>Professional Personnel</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Principal Landscape Architect Dick Fisher	16.00	\$ 160.00	\$ 2,560.00
Associate Stephen Schwartz	14.00	\$ 120.00	\$ 1,680.00
Total Labor:	30.00		\$ 4,240.00

AMOUNT DUE THIS INVOICE: \$ 45,265.78

If you have any questions regarding this invoice, please contact us immediately

Subject: **Rancho San Antonio- Sports Complex - Cessation of Work Activity**
 From: rscengr@aol.com
 Date: Wednesday, August 04, 2010 9:51 AM
 To: rfisher@rfaland.com
 CC: cao2@cityofbell.org, aperetz@cityofbell.org, lramirez@cityofbell.org, dennis , djeng@clubnet.net, kthomson@facilitybuilders.com, ssupernaugh@facilitybuilders.com

Good Morning All, yesterday afternoon speaking with Ed Lee regarding the Sports Complex activity on several issue pertaining to site improvements, Ed requested that I should notify Dick Fisher's office and Facility Builders as to placing the subject project in abeyance as soon as possible. This was with Pedro's concurrence. You are all aware the fast moving circumstances which are impacting City projects and the need for City Management to perhaps discuss the continuation of these projects with our City leaders. To that extent I have discussed this matter with Dick Fisher yesterday afternoon and this morning with Ken Thomson. Both Ken and Dick are in agreement to discontinue.

I think it is important that the work activity do not come to an abrupt end. Rather, the site should be left in a condition that is not demeaning to the surrounding features of the site. I am sure in the next several days this decision may be changed or modified. Pedro and others will surely make these decisions. Call if you have any questions.

CARLOS ALVARADO, P.E.
 City Engineer
 Office (626) 960-1889
 Fax (626) 960-9002

City of Bell Agenda Report

DATE: January 27, 2011
TO: Mayor and Members of the City Council
FROM: Pedro Carrillo, Interim Chief Administrative Officer
SUBJECT: Consideration of a Professional Services Agreement with Public Engineering Services, Inc. for National Pollutant Discharge Elimination System Services, in an Amount Not to Exceed \$20,000.00

RECOMMENDATION:

That the City Council authorize the City to enter into a professional services agreement with Public Engineering Services, Inc. for NPDES Services for the balance of 2011, in an amount not to exceed \$20,000.00. Funds for this agreement were previously allocated and will come from the City's General Fund.

BACKGROUND:

In April 2010, the City entered into a professional services agreement with Charles Abbott Associates ("CAA"), for NPDES compliance services, for an amount not to exceed \$40,716.00. NPDES compliance services are required for all cities. In October 2010, the City received the attached correspondence from CAA informing the City of CAA's intentions to terminate its NPDES compliance services.

City staff has engaged in negotiations with Public Engineering Services for the provision of the NPDES compliance services. The firm is willing to provide the same services for the remainder of the contract, in an amount not to exceed \$20,000.00. Public Engineering Services is currently providing similar services to nearby communities such as Huntington Park and Maywood.

RECOMMENDATION

That the City Council:

1. Authorize the Interim Chief Administrative Officer to enter into an agreement with Public Engineering Services for NPDES Compliance services, in an amount not to exceed \$20,000.00, subject to the approval as to form by the Interim City Attorney, with funds for the project coming from the City's General Fund.

ATTACHMENTS

Proposal from Charles Abbot Associates
Termination Letter from Charles Abbot Associates
Letter from Public Engineering Services Inc.

March 10, 2010

Mr. Luis Ramirez
Deputy City Engineer
6330 Pine Avenue
Bell, CA 90201

RE: PROPOSAL TO CONTINUE PROVIDING NPDES PERMIT COMPLIANCE SERVICES FOR THE CITY OF BELL

Dear Mr. Ramirez:

Charles Abbott Associates, Inc. (CAA) is pleased to submit this proposal to continue to provide NPDES Permit compliance services for the City of Bell (City). We appreciate this opportunity to continue our excellent working relationship with the City.

Our proposal is organized into the following sections:

- General Understandings and Approach
- Task Descriptions, Scheduling, and Budgets
- Summary of Fees

We look forward to continuing our relationship with City of Bell on this important program.

Very Truly Yours,

CHARLES ABBOTT ASSOCIATES, INC.



Kimberly Colbert
Director of Environmental Services

CHARLES ABBOTT ASSOCIATES, INC.

879 West 190th • SUITE 920 • GARDENA, CA 90248

TOLL FREE (866) 530-4980 • PHONE (310) 257-2000 • FAX (310) 534-8082

WWW.CAAPROFESSIONALS.COM



PROPOSAL TO CONTINUE PROVIDING NPDES PERMIT COMPLIANCE

SERVICES FOR THE CITY OF BELL

GENERAL UNDERSTANDING AND APPROACH

This proposal outlines the various services that Charles Abbott Associates, Inc. ("CAA") will provide to the City of Bell to comply with the Los Angeles County Municipal National Pollutant Discharge Elimination System Permit and State and Federal Clean Water Act/Water Quality regulatory programs. CAA will immediately report to and seek guidance from City staff where concerns, issues, or alternatives for additional regulatory activities occur.

The Los Angeles Countywide Municipal National Pollutant Discharge Elimination System ("NPDES") Municipal Storm Water Permit issued by the California Water Quality Control Board, Los Angeles Region (Regional Board) in Order No. 01-182 ("Permit") establishes many ongoing compliance activities both on a day-to-day as well as on an annual basis. While the current Permit (Order No. 01-182) is now expired it remains effective until a new Permit is issued. The existing Permit was recently amended on December 10, 2009 by Order R4-2009-0130 with Total Maximum Daily Load provisions for trash in the Los Angeles River Watershed. The Regional Board has indicated in recent meetings that it will be incorporating all existing and new TMDLs into the draft Los Angeles County NPDES Permit in addition to increasing reporting compliance and monitoring requirements. While a draft Permit is not expected until the end of 2010, CAA will need to attend all related meetings and review documents, to ensure that the City's interests and concerns are adequately addressed. With this in mind CAA will:

1. Continue to assist the City in its ongoing implementation of the primary programs under the Permit: (1) Program Management (regulatory reviews, reporting, meetings, etc.); (2) Public Information and Participation Program; (3) Industrial and Commercial Facility Inspections, (4) Development Planning Assessments; (5) Development Construction Reviews; (6) Public Agency Activities Monitoring and Reporting, and (7) Illicit Connection/Illicit Discharge tracking and investigations.
2. Assume a leading role in addressing special technical issues as they arise. These presently include: (1) Los Angeles River Trash TMDL oversight, development, and implementation; (2) Los Angeles River Metals TMDL oversight, development, and implementation; (3) Los Angeles River Monitoring Sites and Special Studies; (4) monitoring Permit litigation issues.
3. Future Los Angeles River Bacteria TMDL: the Regional Board expects the completion date of the Los Angeles River Bacteria TMDL by the end of 2010. The City of Bell is located in segment B (upper and middle Reach 2 – Figueroa Street to Rosecrans Avenue) with the highest level of coliform bacteria in the Los Angeles River. An Implementation Plan has to be submitted by segment B Agencies in 30 months after effective date of the TMDL and complete implementation 4 years after the Executive Officer (EO) approval of the Implementation Plan. Regional Board will assign bacteria waste load



Proposal to Continue Providing NPDES Permit Compliance Services for the City of Bell

allocations (WLA) and load allocations (LA) to each city of segment B in accordance with the dry-weather implementation plan approved. The City of Bell is responsible for meeting dry-weather bacteria WLAs assigned in the Los Angeles River Bacteria TMDL. CAA has been actively participating in meetings and workshops since the Cleaner Rivers through Effective Stakeholder – led TMDL (CREST) created a draft Dry-weather Implementation Plan which will serve as the template for the Regional Board's development of the LA River Bacteria TMDL Implementation Plan. CAA will continue to provide a leading role in addressing special technical issues arise with this future Los Angeles River Bacteria TMDL. There are currently two (2) contaminants/303(d) listed pollutants for which TMDLs must be developed by 2012, in accordance with the 1999 Consent Decree. The Regional Board has indicated in recent meetings that it will be incorporating all existing and future TMDLs into the draft Los Angeles County NPDES Permit in addition to increasing reporting compliance and monitoring requirements.

4. Assist the City in conducting the Trash Daily Generation Rate (DGR) study during the month of July 2010 in accordance with Trash TMDL requirements for Los Angeles River. CAA will assist the City in meeting the Trash TMDL waste allocation requirements for the third compliance deadline of September 30th, 2010.
5. Assist the City in installing full capture certified catch basin inserts on all catch basins by 2011. Total funding has been awarded to the City from the Gateway Integrated Regional Water Management Authority (IRWM) for catch basin inserts that LARWQCB has certified as full capture devices. IRWM funds will cover to cost of installation of catch basin inserts. However the City will be responsible for ongoing maintenance of full-capture devices to this end, CAA will assist the City in developing a monitoring and maintenance program for the full capture systems for trash. Monitoring and maintenance program of the full capture devices for trash is mandatory to comply with Regional Board full capture device certification.
6. CAA will work with the City to clarify Low Impact Development (LID) requirements on the new projects and provide technical assistance in the selection of efficient structural post-construction BMPs in accordance with LID requirements for new development and redevelopment projects.



Proposal to Continue Providing NPDES Permit Compliance Services for the City of Bell

FY 2010-2011 TASK DESCRIPTIONS, SCHEDULING, AND BUDGETS

This section describes the primary categories of tasks and subtasks as the scope of work proposed by CAA. The City of Bell may elect to have CAA implement the full scope of work described or any combination of task categories.

PART 1 – ADMINISTRATIVE REQUIREMENTS AND REPORTING REQUIREMENTS	
Task Description	Schedule
Annual Report – CAA will assist the City in documenting program activities undertaken during the 2009-2010 reporting period. We will collect program implementation information from appropriate City staff in support of the Annual Report. CAA will submit an electronic copy of the Annual Report to the LACDPW by September 7, 2010. In addition, we will provide the City 2 bound copies, and one CD Rom copy of the Annual Report.	July - September 2010 (60 hrs.)
City Staff Coordination – Coordinate and provide City staff with regular status reports detailing program management and overall program implementation; meetings attended and training conducted; and document upcoming tasks. CAA will work with the City to layout a schedule for accomplishing major compliance milestones associated with the Permit and TMDLs.	Continue to provide assistance as needed on an ongoing basis. (30 hrs.)
Co-Permittee Coordination – Coordinate with other Permittees in the Los Angeles River Watershed. Attend required meetings on behalf of the City of Bell, including monthly Executive Advisory Committee meetings, monthly watershed Permittee meetings and quarterly Public Outreach Strategy meetings.	Continue to provide assistance as needed on an ongoing basis. (56 hrs.)
NPDES New Permit Development – CAA staff will represent the City's interests at meetings pertaining to the development of the New NPDES Permit and other storm water regulations. CAA will review, prepare comments and attend meetings associated with the proposed Permit and other relevant regulations. Our staff will discuss issues with City staff and provide recommendations through verbal communication and written correspondence.	Continue to provide assistance as needed on an ongoing basis. (24 hrs.)
TOTAL BUDGET	\$ 18,360



Proposal to Continue Providing NPDES Permit Compliance Services for the City of Bell

PART 2 – TMDL DEVELOPMENT	
Task Description	Schedule
<p>TMDL Development – CAA environmental staff will represent the City's interests at meetings pertaining to the implementation of the Los Angeles River Metals TMDL. CAA will review, prepare comments and attend meetings associated with the proposed implementation and Monitoring Plans. Based on the Monitoring Program and the Special Studies for Los Angeles River, CAA will provide source reduction strategies to reduce significantly metals in discharges to the Los Angeles River.</p> <p>Based on the 2008 CWA Section 303(d) List of water quality impairments, Los Angeles River Reaches 2 and 5 are impaired for Oil. In accordance with the 1999 Consent Decree the USEPA will adopt a TMDL to address this pollutant by March 24, 2012. Also, Los Angeles River Reach 2 (Carson to Figueroa Street) is listed as impaired by coliform bacteria. City of Bell is responsible for meeting the dry-weather bacteria WLA assigned in the Los Angeles River Bacteria TMDL. CAA has been actively participating in meetings and workshops since the Cleaner Rivers through Effective Stakeholder – led TMDL (CREST) created a draft Dry-weather Implementation Plan as the basis for the Regional Board's development of the LA River Bacteria TMDL Implementation Plan. CAA will actively participate in meetings and assist the City in development comments for Oil and Bacteria reduction in Los Angeles River Reach 2 (City of Bell is located in Reach 2).</p>	<p>Continue to provide assistance as needed on an ongoing basis.</p> <p style="text-align: center;">(124 hrs.)</p>
<p>Trash TMDL Development – Full Capture an Implementation.</p> <p>CAA will assist the City to perform the Trash Daily Generation Rate (DGR) study for the month of July 2010.</p> <p>CAA will assist the City to meet the 40% reduction in the Trash Waste Load Allocation in accordance with the Trash Implementation Schedule, Year 3 implementation, on September 30, 2010.</p> <p>CAA will assist the City in developing a monitoring and maintenance program for full capture systems for trash. Monitoring and maintenance program of the full capture devices for trash is mandatory to comply with Regional Board full capture device certification.</p>	<p style="text-align: center;">(24 hrs.)</p>
TOTAL BUDGET	\$ 15,984



Proposal to Continue Providing NPDES Permit Compliance Services for the City of Bell

PART 3 – PUBLIC EDUCATION PROGRAM	
Task Description	Schedule
Public Education Program – Assist the City in coordinating and participating in the County-wide Public Education program. CAA will assist the City in updating the environmental web page of the City with information regarding new water regulations and outreach articles.	Continue to provide assistance as needed on an ongoing basis (8 hrs.)
TOTAL BUDGET	\$ 864

PART 4 – INDUSTRIAL/COMMERCIAL FACILITIES CONTROL PROGRAM (ICFCP)	
Task Description	Schedule
Train Staff – CAA will train appropriate new City staff (personnel involved in conducting site visits and business license renewal) on the inspection procedures, and database management.	(4 hrs.)
Database Management - CAA will maintain the City's database program for Industrial/commercial facilities.	(10 hrs.)
TOTAL BUDGETED	\$ 1,512



Proposal to Continue Providing NPDES Permit Compliance Services for the City of Bell

PART 5 – DEVELOPMENT PLANNING PROGRAM	
Task Description	Schedule
<p>Development Planning Program – Coordinate with City staff to assist in implementation of the Development Planning Program.</p> <ul style="list-style-type: none"> - CAA will work with the City to clarify the requirements of Low Impact Development (LID) on the projects and to provide technical assistance in the selection of adequate and efficient structural post-construction BMPs in accordance with LID and SUSMP requirements for new construction projects. - Develop an electronic tracking system for post-construction BMPs, and develop an inspection program to verify proper maintenance and operation of structural BMPs. 	Continue to provide assistance as needed on an ongoing basis. (16 hrs.)
DPP Training – Conduct training of City and/or contract staff in the DPP program.	Annually (4 hrs.)
TOTAL BUDGETED	\$ 2,160

PART 6 – PUBLIC AGENCY ACTIVITIES PROGRAM	
Task Description	Schedule
Public Agency Activities Program – Conduct training of City and/or contract staff in PAAP implementation.	Annually (2 hrs.)
TOTAL BUDGETED	\$ 216



Proposal to Continue Providing NPDES Permit Compliance Services for the City of Bell

PART 7 – ILLICIT CONNECTIONS/ILLICIT DISCHARGES PROGRAM	
Task Description	Schedule
IC/ID PROGRAM TASKS	
IC/ID Elimination Program – Assist the City in the implementation of an IC/ID Program based on the Countywide model program and Permit requirements. Coordinate with code enforcement, building inspection, and maintenance staff in identifying and documenting appropriate City procedures.	Continue to provide assistance as needed on an ongoing basis. (6 hrs.)
Tracking and Mapping IC/IDs – Provide oversight of the development and annual updating of a listing of illegal discharges and illicit connections to the storm drain system. CAA will develop a GIS map identifying the locations of IC/IDs with the City.	(7 hrs.)
IC/ID Training – Conduct training of City and/or contract staff in IC/ID Program implementation.	Annually (2 hrs.)
TOTAL BUDGETED	\$ 1,620



SUMMARY OF RATES AND FEES

CAA' services under this agreement will primarily be provided by our Environmental Scientist/Engineer at a billing rate of \$108 per hour. CAA will assist the City in the performance of all of the above tasks for a not-to-exceed contract amount of \$40,716.

The City may choose to eliminate any of the parts from the above-described scope of work prior to program implementation. The total not-to-exceed contract amount will be adjusted as necessary to reflect the sum of the parts selected by the City for CAA implementation. Should the City later select additional parts, the not-to-exceed contract amount will be adjusted in accordance with costs indicated in this proposal.

BUDGET PROPOSAL

Fiscal Year 2010/2011

SECTION	BUDGET
	\$18,360
Project Management and Reporting	\$15,984
TMDL Development	\$864
Public Education Program	\$1,512
Industrial/Commercial Facility Inspection Program	\$2,160
Development Planning Program	\$216
Public Agency Activities Program	\$1,620
Illicit Connection/Illicit Discharge Elimination Program	\$40,716
TOTAL BUDGETED:	



Proposal to Continue Providing NPDES Permit Compliance Services for the City of Bell

To accept this proposal, please retain one copy of this proposal for your records and return one signed copy to our office.

Luis Ramirez
Deputy City Engineer
City of Bell

Date



Proposal to Continue Providing NPDES Permit Compliance Services for the City of Bell

STANDARD HOURLY RATE SCHEDULE

Effective January 1, 2009

<u>CLASSIFICATION</u>	<u>HOURLY RATES</u>	<u>CLASSIFICATION</u>	<u>HOURLY RATES</u>
Senior Principal Consultant	182.00	Landscape Director	111.00
Senior Principal Engineer	162.00	Associate Landscape Architect	78.00
Senior Geologist	130.00	Landscape Associate	68.00
Principal Engineer	135.00		
Public Relations Coordinator	114.00	Sr. Plan Check Engineer	95.00
Community Development Director	134.00	Building Plan Check Engineer	88.00
City Engineer	162.00	Sr. Building Plan Checker	79.00
		Building Plan Checker	70.00
Project Supervisor	134.00		
Project Manager	102.00	Principal Planner	123.00
Structural Engineer	102.00	Senior Planner	102.00
Sr. Registered Engineer	100.00	Associate Planner	80.00
Project Engineer	92.00	Planning Technician	64.00
Senior Design Engineer	88.00		
Design Engineer	77.00	Building Official, Certified	99.00
Assistant/Associate Engineer	70.00	Senior Building Inspector	80.00
		Building Inspector/Plan Checker	70.00
Senior Environmental Consultant	138.00	Code Enforcement Officer	68.00
Environmental Engineer/Scientist II	108.00	Permit Specialist	59.00
Environmental Engineer/Scientist I	90.00		
Environmental Analyst	80.00		
Environmental Inspector	78.00	Sr. Draftsperson (CADD)	80.00
		Draftsperson (CADD)	70.00
Senior Traffic Engineer/Manager	139.00	Computer Technician	56.00
Transportation Planner	95.00		
Traffic Engineer Associate	85.00	Expert Witness Services	166.00
		Senior Contract Administrator	102.00
Senior Construction Observer	80.00	Administrative Assistant	57.00
Construction Observer	70.00	Word Processor	45.00
3-Person Survey Crew	230.00	Clerical	43.00
2-Person Survey Crew	187.00		

The above hourly rates include general and administrative overhead and fees and employee payroll burden.

The above hourly rates are subject to an annual adjustment based upon increases adopted by Charles Abbott Associates, Inc. as reflected in the Consumer Price Index (CPI).



Wednesday, October 13, 2010

RECEIVED
OCT 14 2010
CITY OF BELL

City of Bell
6330 Pine Avenue
Bell, California 90201

To Whom It May Concern:

It is with regret, but I must issue this formal notice of termination of Charles Abbott Associates' environmental services contract (NPDES) dated April 5, 2010 with the City of Bell. Per the terms of the contract, we would expect that a transition of services will take place over the next 30 days (or sooner if the City is agreeable). We appreciate the opportunity the City has afforded us to serve in this environmental services capacity.

Sincerely,

Rusty Reed, CEO
Charles Abbott Associates, Inc.

Wes Lind (W. R. Lind Inc.)
Pub. Engr. Services Inc.
Tel. (626) 447-4274 x210
Fax (626) 447-4276
E-mail wrlindinc@aol.com



November 18,2010

Mr. Carlos Alvarado
15859 E. Edna Place
Irwindale, CA. 91706

Carlos,

Attached is an old brochure that was done for the Company a number of years ago. It was made so that it could apply to any time. I hope that this will help.

I have done work for the City of Huntington Park for about twenty-three years now. I have also done work in various capacities for the City of Maywood over the last fifteen years. I have also done work for Las Virginese Municipal Water District, Elsinore Valley Municipal Water District. All of these I have performed work for in the last three years.

Sincerely,

Wes Lind

149 EAST SAINT JOSEPH STREET, ARCADIA, CA 91006
TEL: 626-447-4274 or 323-584-6271
FAX: 626-447-4276 or 323-589-7122
e-mail: wrlndinc@aol.com or wlnd@huntingtonpark.org

City of Bell Agenda Report

DATE: January 27, 2011
TO: Mayor and Council Members
FROM: Pedro Carrillo, Interim Chief Administrative Officer
SUBJECT: Approve Contract Award for Veterans' Memorial Park Installation of Rubberized Playground Surface Project - 6500 S. Wilcox Avenue, Bell.

RECOMMENDATION:

That the City Council consider and award a contract for the installation of the Veterans' Memorial Park Rubberized Playground Surface Project to Tot Turf, a division of Robertson Industries, Inc., the lowest responsive and responsible bidder, in an amount of \$57,842.32, and authorize the Mayor to execute an agreement on behalf of the City, subject to approval as to form by the Interim City Attorney.

BACKGROUND:

The existing Veterans' Memorial Park playground surface is in extreme disrepair. Gaping holes, tears and cracks in the rubberized surface pose potential hazardous conditions for park users. Surface repairs to patch the holes are no longer effective. The proposed project will include demolition and removal of the existing dilapidated rubberized playground surface and replacement with new poured-in-place, recycled-content playground surface material. The rubberized surface product meets all California minimum playground safety requirements. The estimated time for project completion is ten (10) days.

A Request for Proposal was issued to five (5) qualified playground safety surfacing companies. On September 28, 2010 sealed bids were opened. Four (4) responded with bids for poured-in-place playground surfacing. The following firms submitted bids:

CONTRACTOR	AMOUNT
Tot Turf, a division of Robertson Industries, Inc.	\$57,482.32
ProDek, Inc.	\$71,990.00
RecWest	No bid
Great Western	\$71,990.00

Spectra Turf

\$73,320.00

Tot Turf, a division of Robertson Industries, Inc., submitted the lowest, responsive and responsible bid. This company possesses a current contractor's license with the State of California. References were checked and all indicated satisfaction with work performed.

Costs incurred for the installation of the rubberized surface playground material at Veterans' Memorial Park may be eligible for reimbursement up to a maximum of \$49,224.00 under the State of California 2002 Resources Bond Act (Proposition 40) Per Capita grant. The General Fund will support the balance of the contract amount or approximately \$10,000.00.

ATTACHMENTS

1. Contract with Tot Turf

1579713.3

**AGREEMENT FOR CONSTRUCTION SERVICES
BETWEEN
THE CITY OF BELL AND
TOT TURF, A DIVISION OF ROBERTSON INDUSTRIES, INC.**

This AGREEMENT is entered into this 27th day of January, 2011, by and between the CITY OF BELL, a chartered city ("CITY") and TOT TURF, A DIVISION OF ROBERTSON INDUSTRIES, INC. ("CONTRACTOR").

1. CONSIDERATION.

- A. As partial consideration, CONTRACTOR agrees to perform the work listed in the BID RESPONSE, attached hereto;
- B. As additional consideration, CONTRACTOR and CITY agree to abide by the terms and conditions contained in this Agreement;
- C. As additional consideration, CITY agrees to pay CONTRACTOR a sum not to exceed \$57,482.32 Dollars (Fifty-seven Thousand, Four Hundred Eighty-Two Dollars and Thirty-Two Cents) for CONTRACTOR's services. CITY may modify this amount as set forth below.

2. SCOPE OF SERVICES.

- A. CONTRACTOR will perform services listed in the attached Bid Response, which is incorporated herein.
- B. CONTRACTOR will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by CITY, necessary or proper to perform and complete the work and provide the professional services required of CONTRACTOR by this Agreement.

3. PERFORMANCE STANDARDS. While performing this Agreement, CONTRACTOR will use the appropriate generally accepted professional standards of practice existing at the time of performance utilized by persons engaged in providing similar services. CITY will continuously monitor CONTRACTOR's services. CITY will notify CONTRACTOR of any deficiencies and CONTRACTOR will have fifteen (15) days after such notification to cure any shortcomings to CITY's satisfaction. Costs associated with curing the deficiencies will be borne by CONTRACTOR.

4. DISPUTES AND REMEDIES.

- A. Claims, disputes, and other matters in question between the Parties arising out of or relating to this Agreement or the breach thereof, must be resolved by the following procedure:
- i. City and CONTRACTOR will exercise their best efforts to resolve disputes through the development of a consensus. A meeting may be requested by City or CONTRACTOR at any time for the purpose of resolving a dispute. A determination by City's will be made within two (2) weeks after a meeting to resolve the dispute;
 - ii. If unresolved within thirty (30) days, then City's Interim Chief Administrative Officer (CAO), or designee, will make a final determination;
 - iii. Following the Interim CAO's final determination, or designee, the Parties may submit any unresolved matters to non-binding mediation. The parties may, but are not required to be, represented by counsel in mediation.
 - iv. If the Parties do not agree to mediation, or if mediation does not resolve the Parties' dispute, the matter may be pursued in Los Angeles County Superior Court.
- B. The Parties' rights and remedies under this Agreement are in addition to any other rights and remedies provided by law.

5. PAYMENTS. For CITY to pay CONTRACTOR as specified by this Agreement, CONTRACTOR must submit a detailed invoice to CITY which lists the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, the total cost of that work during the preceding billing month and a cumulative cash flow curve showing projected and actual expenditures versus time to date.

6. ADDITIONAL WORK.

- A. CITY may determine that CONTRACTOR must perform additional work ("Additional Work") to complete the Scope of Work. If Additional Work is needed, the Interim CAO, or his designee, will give written authorization to CONTRACTOR to perform such Additional Work.
- B. If CONTRACTOR believes Additional Work is needed to complete the Scope of Work, CONTRACTOR will provide the Interim CAO, or his designee with written notification that contains a specific description of the proposed Additional Work, reasons for such Additional Work, and a detailed proposal regarding cost.

7. FAMILIARITY WITH WORK.

- A. By executing this Agreement, CONTRACTOR agrees that, to the best of CONTRACTOR's knowledge and belief, CONTRACTOR has
 - i. Carefully investigated and considered the scope of services to be performed;
 - ii. Carefully considered how the services should be performed; and
 - iii. Understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.
- B. If services involve work upon any site, CONTRACTOR agrees that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing the services hereunder. Should CONTRACTOR discover any latent or unknown conditions that may materially affect the performance of the services, CONTRACTOR will immediately inform CITY of such fact and will not proceed except at CONTRACTOR's own risk until written instructions are received from CITY.
- C. **TERM.** The term of this Agreement will be from the date of execution to June 30, 2011.

8. TIME FOR PERFORMANCE. CONTRACTOR will not perform any work under this Agreement until:

- A. CONTRACTOR furnishes proof of insurance as required under Section 23 of this Agreement; and
- B. CITY gives CONTRACTOR a written, signed, and numbered purchase order in addition to a written Notice to Proceed. This Agreement will supersede any conflicting provisions included on the purchase order or notice to proceed issued pursuant to this Agreement.
- C. Should CONTRACTOR begin work on any phase in advance of receiving written authorization to proceed, any such professional services are at CONTRACTOR's own risk.

9. TIME EXTENSIONS. Should CONTRACTOR be delayed by causes beyond CONTRACTOR's control, CITY may grant a time extension for the completion of the contracted services. If delay occurs, CONTRACTOR must notify the Interim CAO or his designee within forty-eight hours (48 hours), in writing, of the cause and the extent of the delay

and how such delay interferes with the Agreement's schedule. The Interim CAO, or designee, will extend the completion time, when appropriate, for the completion of the contracted services.

10. CHANGES. CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by CONTRACTOR and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.

11. TAXPAYER IDENTIFICATION NUMBER. CONTRACTOR will provide CITY with a Taxpayer Identification Number.

12. PERMITS AND LICENSES. CONTRACTOR, at its sole expense, will obtain and maintain during the term of this Agreement, all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

13. PROJECT COORDINATION AND SUPERVISION.

- A. **Kelli Shelton Blakely, Sales Associate** will be assigned as CONTRACTOR'S Project Manager and will be responsible for job performance, negotiations, contractual matters, and coordination with the CITY.

14. WAIVER. CITY's review or acceptance of, or payment for, work product prepared by CONTRACTOR under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from CONTRACTOR's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

15. TERMINATION.

- A. Except as otherwise provided, either party may terminate this Agreement by written notice at least thirty (30) days before the effective termination date.
- B. Should termination occur, all finished or unfinished documents, data, studies, surveys, drawings, maps, reports and other materials prepared by CONTRACTOR will, at CITY's option, become CITY's property, and CONTRACTOR will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination, not to exceed the total costs under Exhibit A.

16. NOTICE OF BREACH AND OPPORTUNITY TO CURE. Neither party will be deemed to be in breach of this Agreement based on a breach that is capable of being cured until it has received written notice of the breach from the other party. The party charged with breach will

have fifteen (15) days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other party within fifteen (15) days from the date on which the party received notice of breach, the non-breaching party may terminate this Agreement.

17. OWNERSHIP OF DOCUMENTS. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONTRACTOR under this Agreement are CITY's property. CONTRACTOR may retain copies of said documents and materials as desired, but will deliver all original materials to CITY upon CITY's written notice. CITY agrees that use of CONTRACTOR's completed work product, for purposes other than identified in this Agreement, or use of incomplete work product, is at CITY's own risk. CITY will indemnify and hold CONTRACTOR harmless for any use of the work product other than as contemplated by this Agreement.

18. PUBLICATION OF DOCUMENTS. Except as necessary for performance of service under this Agreement, no copies, sketches, or graphs of materials, including graphic art work, prepared pursuant to this Agreement, will be released by CONTRACTOR to any other person or City without CITY's prior written approval. All press releases, including graphic display information to be published in newspapers or magazines, will be approved and distributed solely by CITY, unless otherwise provided by written agreement between the parties.

19. INDEMNIFICATION.

A. CONTRACTOR agrees to the following:

- i. ***Indemnification for Professional Services.*** CONTRACTOR will save harmless and indemnify all its officers, employees and representatives from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of, any injuries or damages sustained by any person or property, but only to the extent resulting or arising from any negligent or wrongful act, error or omission by CONTRACTOR or any of CONTRACTOR's officers, agents, employees, or representatives, in the performance of this Agreement.
- ii. ***Indemnification for other Damages.*** CONTRACTOR indemnifies and holds CITY harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of this Agreement, or its negligent performance.

B. For purposes of this section, "CITY" includes CITY's officers, officials, employees, agents, and representatives.

C. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

- D. The requirements as to the types and limits of insurance coverage to be maintained by CONTRACTOR as required by Section 23, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONTRACTOR pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

20. **ASSIGNABILITY.** This Agreement is for CONTRACTOR's services. CONTRACTOR's attempts to assign the benefits or burdens of this Agreement without CITY's written approval are prohibited and will be null and void.

21. **INDEPENDENT CONTRACTOR.** CITY and CONTRACTOR agree that CONTRACTOR will act as an independent contractor and will have control of all work and the manner in which is it performed. CONTRACTOR will be free to contract for similar service to be performed for other employers while under contract with CITY. CONTRACTOR is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct CONTRACTOR as to the details of doing the work or to exercise a measure of control over the work means that CONTRACTOR will follow the direction of the CITY as to end results of the work only.

22. **AUDIT OF RECORDS.** CONTRACTOR will maintain full and accurate records with respect to all services and matters covered under this Agreement. CITY will have free access at all reasonable times to such records, and the right to examine and audit the same and to make transcript therefrom, and to inspect all program data, documents, proceedings and activities. CONTRACTOR will retain such financial and program service records for at least four (4) years after termination or final payment under this Agreement.

23. **INSURANCE.**

- A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, CONTRACTOR will procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial general liability:	\$1,000,000
Professional Liability	\$1,000,000
Business automobile liability	\$1,000,000
Workers compensation	\$1,000,000

- B. Commercial general liability insurance will meet or exceed the requirements of

ISO-CGL Form No. CG 00 01 11 85 or 88. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies will be endorsed to name CITY, its officials, and employees as "additional insureds" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by CITY will be excess thereto. Such endorsement must be reflected on ISO Form No. CG 20 10 11 85 or 88, or equivalent. Such insurance will be on an "occurrence," not a "claims made," basis.

- C. Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 06 92.
- D. Professional liability coverage will be on a "claims made" basis. When coverage is provided on a "claims made basis," CONTRACTOR will continue to maintain the insurance in effect for a period of three (3) years after this Agreement expires or is terminated ("extended insurance"). Such extended insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONTRACTOR for all claims made by CITY arising out of any errors or omissions of CONTRACTOR, or its officers, employees or agents during the time this Agreement was in effect.
- E. CONTRACTOR will furnish to CITY duly authenticated Certificates of Insurance evidencing maintenance of the insurance required under this Agreement and such other evidence of insurance or copies of policies as may be reasonably required by CITY from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII."
- F. Should CONTRACTOR, for any reason, fail to obtain and maintain the insurance required by this Agreement, CITY may obtain such coverage at CONTRACTOR's expense and deduct the cost of such insurance from payments due to CONTRACTOR under this Agreement.

24. INCIDENTAL TASKS. CONTRACTOR will meet with CITY as needed to provide the status on the project, which will include a schedule update and a short narrative description of progress during the past month for each major task, a description of the work remaining and a description of the work to be done before the next schedule update.

25. NOTICES. All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

CITY
Pedro Carrillo, Interim
Chief Administrative Officer

CONTRACTOR
Kelli Shelton Blakely
Sales Associate

City of Bell
6330 Pine Avenue

TOT TURF, A DIVISION OF
ROBERTSON INDUSTRIES, INC.
4245 E. Colorado Street
Long Beach, CA 90814

Bell, CA 90201
Telephone: (323) 588-6211

Telephone: (562) 787-5630
Fax: (866) 339-9117

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above.

26. CONFLICT OF INTEREST. CONTRACTOR will comply with all conflict of interest laws and regulations including, without limitation, CITY's conflict of interest regulations.

27. SOLICITATION. CONTRACTOR maintains and warrants that it has not employed nor retained any company or person, other than CONTRACTOR's bona fide employee, to solicit or secure this Agreement. Further, CONTRACTOR warrants that it has not paid nor has it agreed to pay any company or person, other than CONTRACTOR's bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should CONTRACTOR breach or violate this warranty, CITY may rescind this Agreement without liability.

28. INTERPRETATION. This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.

29. ENTIRE AGREEMENT. This Agreement, and its Attachments, sets for the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written. There is one (1) Attachment to this Agreement. This Agreement will bind and inure to the benefit of the parties to this Agreement and any subsequent successors and assigns.

30. RULES OF CONSTRUCTION. Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

31. SEVERABILITY. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect.

32. AUTHORITY/MODIFICATION. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to

engage in the actions described herein. This Agreement may be modified by written amendment. CITY's Interim Chief Administrative Officer, or designee, may execute any such amendment on behalf of CITY.

33. TIME IS OF ESSENCE. Time is of the essence for each and every provision of this Agreement.

34. STATEMENT OF EXPERIENCE. By executing this Agreement, CONTRACTOR represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to perform the Agreement in a manner satisfactory to CITY. CONTRACTOR represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private CONTRACTORS, and experience in dealing with public agencies all suggest that CONTRACTOR is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public agency.

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF BELL,

a chartered city.

TOT TURF, A DIVISION OF
ROBERTSON INDUSTRIES, INC.

Pedro Carrillo
Interim Chief Administrative Officer

Kelli Shelton Blake

ATTEST:

Taxpayer ID No _____

Rebecca Valdez
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY

By: _____



16059 E FOOTHILL BLVD.
IRWINDALE, CA 91702
562-787-5630 PHONE
866-339-9117 FAX
KBLAKELY@TOTTURF.COM

ROBERTSON INDUSTRIES, INC.

9/28/10

**CITY OF BELL
VETERANS MEMORIAL PARK
INSTALLATION IF NEW RUBBERIZED, RECYCLED-CONTENT PLAYGROUND SURFACE MATERIAL**

ALTERNATE BID RECAP

6500 SF UP TO 3.5" TOTTURF POURED-IN-PLACE \$7.79 SF \$50,635.00

- 100% STD COLOR
 1. BLUE
 2. GREEN
 3. TAN
 4. TERRA COTA RED
- 5-YEAR WARRANTY
- MEETS ALL ADA, ASTM, & CPSC REQUIREMENTS
- BASED ON CA STATE PREVAILING WAGE
- FIVE (5) YEAR WARRANTY (SEE ATTACHED)
- ESTIMATED PROJECT COMPLETION TIME: 10-DAYS

LINE ITEM: DEMO AND REMOVAL OF EXISTING SURFACING \$6,847.32

GRAND TOTAL: \$57,482.32

AZ:
ROC091920 Class L-05
ROC091912 Class C-05

CA:
667261 Class C/64 D/64
C/61 D/12

NV:
0047672 Class C25 C/40

NM:
83979

HI:
C-24037
C-24038



Robertson Industries, Inc.
 401 Chestnut St., Suite 310
 Chattanooga, Tn. 37402
 PH:800-858-0519

Date:9/28/2010
Project Number #:
10-2455
Valid Until:11/27/2010

Remit all correspondence to sales contact

PROJECT INFORMATION

SALES CONTACT

Name: Veterans' Memorial Park - New
Rubberized , Recycled-Content Surface
Address: 6500 S Wilcox Ave, Bell, CA 90201
Contact: Lisa Rowe
Phone: (323) 773-1596

Kelli Blakely
kblakely@totturf.com
Phone: (562) 787-5630
Fax: (866) 319-9117

Scope: See page # 2 for detailed information

Product Name	Line Description	Quantity	Sales Price	Total Price
3000 TT AROMATIC-3.5	6500 SF Up to 3.5" TotTurf PIP-100% Std Color	6,500.00	\$7.79	\$50,635.00
Sales Tax	9.75% Sales Tax	1.00	\$1,727.92	\$1,727.92
Discount	Discount	1.00	-\$1,727.92	-\$1,727.92
Grand Total				\$50,635.00

Offer Valid till: 11/27/2010

Total Unit Price: \$7.79

Prepared By: _____

Thank you for your business!



SCOPE INFORMATION

PROPOSAL # 10-2455

Terms and Conditions: Quote is based on the information provided and is subject to change based on final installation unless indicated below. Sub-base provided by others is to meet TotTurf specifications and grade elevations. Sub-base work performed by others is the responsibility of the owner. In the event that a change in color, color percentage, thickness, or square footage is requested, a revised proposal and/or purchase order will be required before installation can begin. Bonding is not included in quote pricing unless otherwise specified.

WAGE:--Prevailing URETHANE:--Aromatic SAWCUTTING:--No
IMPACT TESTING:--No EXCAVATION:--No TURNDOWN:--No

SCOPE:
6500 SF Up to 3.5" TotTurf PIP, 100% Std Color.

LINE ITEM DEMO and REMOVAL: \$6,900.00



Help prolong the life of your new TotTurf product! The Robbie Maintenance Program is designed to add years of life to your safety surface. For more information please contact your sales representative at the number above or call our corporate office at 1-800-858-0519. This Project will recycle 0 Passenger Tire Equivalents (PTE's)

SCOPE LETTER

PROPOSAL # 10-2455

BID DATE: **9/28/2010 12:28 PM**

ROBERTSON INDUSTRIES, INC., AN I.P.E.M.A. * AND NPSI ** CERTIFIED MANUFACTURER, IS PLEASED TO PROVIDE THE ATTACHED QUOTE FOR YOUR CONSIDERATION:

- > THE SCOPE OF THE PROPOSAL DOES NOT EXCEED MAUNFACTURERS "STANDARD" PRODUCT, WARRANTIES, SERVICES AND ASSURANCES UNLESS STATED.
- > ANY CHANGES OR ADDITIONS TO THIS PROPOSAL TO INCLUDE MATERIALS WILL AFFECT PRICING.

GENERAL SCOPE:

1. PROVIDE MATERIALS AND INSTALLATION OF POURED IN PLACE RESILIENT SURFACING.
2. WAGE: Prevailing
3. SQUARE FOOTAGE, THICKNESS, AND COLOR AS NOTED.
 - a. DOES NOT INCLUDE ROOFTOP INSTALLATION, SITE WORK, CONCRETE, COMPACTION OF AGGREGATE, FENCING, SECURITY, BONDING, PERMITS OR LICENSES, EXTENDED WARRANTIES, BUILDERS RISK INSURANCE/ADDITIONALLY INSURED, O.C.I.P., OR WAIVERS OF SUBROGATION UNLESS OTHERWISE NOTED IN SPECIFIC SCOPE..
4. **ACCESS FOR EQUIPMENT REQUIRED (MAXIMUM 25' FOR TRUCK AND MIXER, NO STAIRS). IRRIGATION, SPRINKLERS, AND WATER WITHIN 25' OF INSTALLATION OF REPAIRS WILL BE SHUT DOWN UNTIL WORK IS COMPLETED FOR A MINIMUM OF 24 HOURS.**
5. INSTALLERS LOCAL, MATERIALS STORED AT LOCAL SERVICE CENTER.
6. LOCAL CONTRACTORS LICENSE.
7. I.P.E.M.A. CERTIFIED, NPSI CERTIFIED.
8. ATTENUATION TESTING/NPSI INSPECTION NOT INCLUDED AND BU OTHERS.
9. IF INSTALLATION DATE EXCEEDS 6 MONTHS FROM BID DATE, PRICING MAY BE AFFECTED AND INCREASE.
10. IF SITE IS NOT READY TO START OR INSTALLERS CAN'T COMPLETE THE ENTIRE JOB UPON ARRIVAL, ADDITIONAL CHARGES FOR DOWNTIME WILL BE ASSESSED.

- *INTERNATIONAL PLAY EQUIPMENT MANUFACTURERS ASSOCIATION
- **NATIONAL PLAYGROUND SAFETY INSTITUTE

CONTRACTOR'S LICENSE NUMBERS:

- * CA-667261 CLASS C/64 D/64, C/61 D/12
- * AZ-ROC091920 CLASS L-05
- * NV-0042331 CLASS C25. C40

CHECK NO	DATE	BATCH	VENDOR/DESCRIPTION	AMOUNT
46985	11/30/10	1101	FACILITY BUILDERS & ERECTORS, PROF SVCS-JUN'10 RSAP PROF SVCS-JUL'10 RSAP PROF SVCS-AUG'10 RSAP PROF SVCS-SEP'10 RSAP	475,951.00
47025	11/30/10	1101	RICHARD FISHER ASSOCIATES PROF SVCS-JUL'10 RSAP PROF SVCS-JUL'10 VETS PARK	46,065.78
TOTAL	2 CHECKS			522,016.78

RECONSIDERATION OF
QUESTIONED WARRANTS FOR
DECEMBER 13, 2010 MEETING

*Minutes of
Bell City Council
Bell Community Redevelopment Agency
Bell Community Housing Authority
Bell Public Finance Authority*

*November 1, 2010– 7:00 P.M.
Bell City Council Chambers
6300 Pine Avenue*

Meeting was called to order at 7:35 PM.

Present: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez

Absent: Councilman Mirabal

Also Present: Interim Chief Administrative Officer Carrillo, Interim City Attorney Casso, City Clerk Valdez, City Engineer Alvarado and Captain Miranda.

Pledge of Allegiance led by Anthony Miranda, Captain.

Communications From The Public

7:38:19 PM Miguel Sanchez, 6920 Woodward Avenue, expressed concerned regarding the money in the breast cancer fundraiser and also requested further information on the towing companies

7:43:19 PM Nora Saenz, no address stated, expressed concerned regarding Consolidated Disposal, Lourdes Garcia's salary and James Casso's payments.

7:50:29 PM Donna Gannon, 6601 Prospect Avenue, expressed concern about the street lighting on the bridges. She also requested the status on the \$35,000,000 bond issue. She expressed concern about appointing a new Council Member and the Oldtimers contract.

7:55:21 PM Miguel Angel Contreras, 6243 Vinevale Avenue, mentioned that he has lived in the city for 43 years and expressed concern about the Police Department in regards to impounds and expressed that he wants a new department with new employees.

7:59:54 PM Coco Ceja, 6936 Prospect Avenue, expressed concerned about the payments to Urban Associates, Maywood payments for maintenance and Oldtimers Foundation payments.

8:04:35 PM Councilman Velez requested copies of invoices for payments made to Urban Associates.

8:07:58 PM Marcelino Ceja, 6936 Prospect Avenue, expressed concern about the six investigations going on in the city. He asked the residents to keep the peace and requested the council to approved the recall. He also requested the Police Department to take a payout.

8:11:53 PM Sandy Orozco, Maywood Resident, expressed concern with the Sheriff's Department in Maywood, Ty Henshaw, emails among the Maywood council, Mr. Rizzo and Angela Spaccia. She also expressed concern about Pedro Carrillo.

8:14:40 PM Dennis Azevedo, retired Maywood Police officer, expressed concerned with Angela Spaccia, Maywood Councilmembers and Bell Councilmembers. Expressed concerned about payments made to Maywood employees.

8:17:55 PM Ismael Morales, 6527 Corona Avenue #D, expressed concerned with officials, city administration and voter fraud.

8:20:54 PM Mariel Sanders, 6218 Carmelita Avenue, expressed concern with the conduct of the meeting.

8:24:38 PM Luz Moya, 6917 Corona Avenue, would like the Bell Police department to stay, expressed concerned with Ty Henshaw, expressed concerned with payments to Meyers Nave and graffiti services.

8:28:12 PM The City Council recessed and reconvened at 8:56 PM.

8:58:45 PM Danny Harber, 4952 Weik Avenue, requested the council to move on with the agenda and stop the communications from the public.

9:00:52 PM Alfredo Vasquez, 4874 Gage Avenue #29, asked the council why there was an increase on the mobile home parks bond and requested on how the bonds were used.

9:03:57 PM Alfred Areyan, 7008 Vinevale Avenue, thanked the council for attending the meeting, expressed concerned with the chaos going on with the residents.

9:05:03 PM Jose Moreno, 6235 Corona Avenue, expressed concern about the financial status of the city, utility users tax, and the status on Proposition A.

9:09:41 PM Mario Rivas, 6336 Home Avenue, expressed concern about a long term contract with the police department ,the loans and the issues with the police department.

9:14:01 PM Joaquin Navarro, Lanscaster Resident, expressed concern about the behavior and requested for council to be more transparent.

9:15:52 PM Jaime Luna, 7111 Heliotrope Avenue, address Vice Mayor Jacobo and expressed concern about comments made about Nestor Valencia

Council Business

It was moved by Councilman Velez, seconded by Vice Mayor Jacobo, to approve the Acceptance of Work – Wilcox Ave. Street Rehabilitation Project from Gage Ave. to Florence Ave. – Project No. 68-525-0100-0988.

9:50:15 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to approve the Acceptance of Work – Bandini Blvd. Street Resurfacing Project from Eastern Ave. to 26TH Street. – Federal Project No. ESPL-5272 (009) – Project Account No. 04-525-3737-0932.

9:50:41 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

Received and filed Quarterly Treasurer’s Report for June 2010 and September 2010.

9:55:40 PM It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to approve the warrants dated September 30, 2010 in the amount of \$945,695.38 (103 checks and 6 wire transfers).

10:01:26 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez

No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

10:01:49 PM Mayor Hernandez nominated Councilman Velez to fill the vacancy and appoint him as a representative to a 2 year term to the Board of Trustees of the Greater Los Angeles County Vector Control District.

10:03:58 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

10:07:30 PM It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to approve the warrants dated October 29, 2010 in the amount of \$4,173,574.60 (168 checks and 2 wire transfers). Warrant No. 46734, 46756, 46758, 46762, 46859 and 46809 were pulled.

10:07:54 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

10:08:17 PM It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to approve Bell City Council, Bell Community Redevelopment Agency and Bell Community Housing Authority Minutes dated September 20, 2010.

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

9:37:31 PM It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to approve Resolution No. 2010-31 accepting the City Clerk's Certification of Signatures on Recall Petitions

9:38:47 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

9:39:16 PM It was moved by Councilman Velez, seconded by Vice Mayor Jacobo, to approve Resolution No. 2010-32 Calling a Special Election to be Held on March 8, 2011.

9:45:24 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

9:45:35 PM It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to approve Resolution No. 2010-33 Calling for a Special Election to Fill Council Vacancy, Consolidate that Election with the Recall Election, and Consideration of Appointment of Interim Councilmember.

9:48:19 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

No action was taken on the following items:

Approval of a Resolution Requesting the County of Los Angeles to Render Services for the March 8, 2011 Election.

Recommendation: Approve Resolution No. 2010-34 Requesting the Board of Supervisors of the County of Los Angeles to Render Specified Services to the City Relating to the Conduct of a General Municipal Election to be Held on Tuesday, March 8, 2011

Approval of a Resolution Adopting Regulations for Candidate Statements for the March 8, 2011 Election

Recommendation: Approve Resolution No. 2010-36 Adopting Regulations for Candidates for Elective Office Pertaining to Candidate Statements Submitted to the Voters at an Election to be Held on Tuesday, March 8, 2011

10:09:12 PM It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to approve Non-exclusive Franchise Agreements for Vehicle Towing and Storage Services with Huntington Park Automotive & Tow Service Inc., Motor Club Inc. and Mr. C's Towing, and direct the Mayor to execute these agreements on behalf of the City.

10:14:55 PM

Vote:	3-0
Yes:	Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No:	None
Abstained:	None
Absent:	Mirabal

Motion Unanimously Passed.

10:15:02 PM The following item was moved to the next council meeting:

Consideration of a Resolution Terminating Certain Post-Employment Benefits as of August 1, 2010 in the Interests of Fiscal Sustainability

Recommendation: Approve Resolution No. 2010-35 regarding certain post-employment benefits effective as of August 1, 2010.

10:17:58 PM It was moved by Councilman Velez, seconded by Vice Mayor Jacobo, to Award the Alamo Ave. Project to E.C. Construction Company of South El Monte, CA in an amount not to exceed \$226,648.90, funds to be provided from STPL Federal Funds and City Prop "C" Funds, Account No. 68-525-0100-0913. Also, authorize the City Engineer to act as Resident Engineer for all aspects of this improvement from start of construction to completion of project. .

10:18:10 PM

Vote:	3-0
Yes:	Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez

No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

10:18:30 PM It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to Authorize the Interim CAO to accept the work for the Veteran's Memorial Park Single-Use Children's Restroom Project – City of Bell Per Capita Grant Project 02-19-218 at 6500 S. Wilcox Avenue, Bell, CA, on behalf of the City, and execute any necessary documents, upon approval as to form by the Interim City Attorney.

10:26:17 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

10:26:42 PM It was moved by Councilman Velez, seconded by Vice Mayor Jacobo, to Authorize the Interim CAO to accept the work for Federal Project No. ESPL-5272 (010) – Project Account No. 04-525-3737-0931, on behalf of the City, and execute any necessary documents, upon approval as to form by the Interim City Attorney.

10:26:52 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

10:27:02 PM It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to Consider and reject the claims of Alicia Gonzalez and Eliza Roman.

10:27:17 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
No: None
Abstained: None

Absent: Councilman Mirabal

Motion Unanimously Passed.

10:27:31 PM It was moved by Vice Mayor Jacobo, seconded by Councilman Velez, to approve warrant no. 46540 and 46562 dated September 20, 2010 in the amount of \$87,561.00. Warrant No. 46499 and 46548 dated September 20, 2010 in the amount of \$103,582.58 were pulled.

10:34:10 PM

Vote: 3-0
Yes: Mayor Hernandez, Vice Mayor Jacobo and Councilman Velez
stained: None
Absent: Councilman Mirabal

Motion Unanimously Passed.

Community Redevelopment Agency

Community Redevelopment Agency meeting was called to order at 10:34:54 PM.

Present: Chair Hernandez, Vice Chair Jacobo and Agency Member Velez

Absent: Agency Member Mirabal

Also Present: Interim Chief Administrative Officer Carrillo, Interim City Attorney Casso, City Clerk Valdez, City Engineer Alvarado and Captain Miranda.

10:36:00 PM It was moved by Agency Member Velez, seconded by Vice Chair Jacobo, to approve warrants dated September 30, 2010 in the amount of \$1,489,501.07 (7 checks and 2 wire transfers).

Vote: 3-0
Yes: Chair Hernandez, Vice Chair Jacobo and Agency Member Velez
No: None
Abstained: None
Absent: Agency Member Mirabal

Motion Unanimously Passed.

It was moved by Vice Chair Jacobo, seconded by Agency Member Velez, to approve warrants dated October 29, 2010 in the amount of \$5,722.21 (4 checks and 1 wire transfers).

Vote: 3-0
Yes: Chair Hernandez, Vice Chair Jacobo and Agency Member Velez
No: None
Abstained: None
Absent: Agency Member Mirabal

Motion Unanimously Passed.

No items were identified for the next Community Redevelopment Agency meeting.

Community Redevelopment Agency adjourned at 10:36:41 PM.

Community Housing Authority

Community Housing Authority meeting was called to order at 10:39:38 PM.

Present: Chair Hernandez, Vice Chair Jacobo and Commissioner Velez

Absent: Commissioner Mirabal

Also Present: Interim Chief Administrative Officer Carrillo, Interim City Attorney Casso, City Clerk Valdez, City Engineer Alvarado and Captain Miranda.

10:39:52 PM It was moved by Vice Chair Jacobo, seconded by Commissioner Velez, to approve warrants dated September 30, 2010 in the amount of \$1,041.28 (7 checks).

Vote: 3-0
Yes: Chair Hernandez, Vice Chair Jacobo and Commissioner Velez
No: None
Abstained: None
Absent: Commissioner Mirabal

Motion Unanimously Passed.

It was moved by Vice Chair Jacobo, seconded by Commissioner Velez, to approve warrants dated October 29, 2010 in the amount of \$5,071.68 (9 checks).

Vote: 3-0
Yes: Chair Hernandez, Vice Chair Jacobo and Commissioner Velez
No: None
Abstained: None
Absent: Commissioner Mirabal

Motion Unanimously Passed.

Commissioner Velez requested to address low income housing at the mobile home parks and requested information about the utility meters at the mobile home parks.

Community Housing Authority adjourned at 10:45:58 PM.

Interim Chief Administrative Officer's Report

10:46:21 PM Pedro Carrillo, Interim CAO provided a report to the City Council regarding the letter issued to BASTA.

Closed Session

10:49:19 PM The City Council recessed to a closed session to confer with legal counsel regarding the following matters:

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)
Name of Case: *State of California v. Rizzo et al.*
Case No.: Los Angeles County Superior Court, BC445497

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)
Name of Case: *City of Bell v. Sopp*
Case No.: Los Angeles County Superior Court, BC422467

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)
Name of Case: *Jane Doe v. City of Bell*

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)
Name of Case: *McSweeney v. City of Bell, et al.*
Case No.: Los Angeles County Superior Court, BC406337

CONFERENCE WITH LEGAL COUNSEL-POTENTIAL LITIGATION

(Subdivision (b) of Section 54956.9)

Significant exposure to litigation in the opinion of the Finance Authority on the advice of the Interim City Attorney – one potential case.

The city council reconvened to open session at 12:48:02 AM

As to item 7.01 Mayor Hernandez and Vice Mayor Jacobo participated under the political reform act and under the rule of necessity, on a 3-0 vote direction was given Interim City Attorney, no final action was taken.

As to item 7.02 there was no reportable action.

As to item 7.03 direction was given to the Interim City Attorney, no vote was taken.

As to item 7.04 direction was given to the Interim City Attorney, no vote was taken.

As to item 7.05 direction was given to the Interim City Attorney, no vote was taken.

The City Council reconvened to identify items they wish to discuss at the next meeting. These items were not acted on at this meeting, only identified for the next meeting.

Mayor and City Council Communications

None.

Identification of Items for Next City Council Meeting.

12:50:01 AM Councilman Velez, requested to appoint Captain Tony Miranda as Chief of Police and requested the Interim CAO to have the briefings in writing.

Adjournment

City Council Meeting adjourned at 12:51:16 AM.

Rebecca Valdez, CMC
City Clerk

APPROVED:

Oscar Hernandez
Mayor

ATTEST:

Rebecca Valdez, CMC
City Clerk

*Special Minutes of
Bell City Council*

*December 1, 2010– 8:00 A.M.
City Council Chambers
6330 Pine Avenue
Bell, California 90201*

Meeting was called to order at 8:07 AM.

Present: Mayor Hernandez, Vice Mayor Jacobo, Councilman Mirabal and Councilman Velez

Absent: None

Also Present: Interim Chief Administrative Officer Carrillo, Interim City Attorney Casso, City Clerk Valdez and Captain Miranda.

Pledge of Allegiance led by Anthony Miranda, Captain.

Communications From The Public

Nestor Valencia, 7115 San Luis Avenue, expressed concern about item 3.05.

Juliana Chico Sanchez, 6920 Woodward Avenue, expressed concern about the meeting time.

Steve Brown, 5162 Florence Avenue, expressed concern about item 3.05.

Marcelino Ceja, 6936 Prospect Avenue, expressed concern about item 3.05.

Cristina Garcia, no address stated, expressed concern about item 3.05.

Carmen Bella, 6332 Palm Avenue, expressed concern about item 3.05.

Dale Walker, 6815 Otis Avenue #D, thanked the City Council for all being present and requested the Council to take into consideration any decisions they will be making.

Bill Fick, no address stated, expressed concern about the assessments.

Jose Magallon, 6227 Vinevale Avenue, expressed concern about the meeting time.

Alfred Areyan, 7008 Vinevale Avenue, requested to have the meetings recorded and also to provide translation.

Lorenzo Martinez, 6319 Loma Vista Avenue, expressed concern about item 3.05 and inquired about the process.

Closed Session

The City Council recessed to a closed session to confer with legal counsel regarding the following matters:

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(Government Code Section 54956.9(a))

Name of Case: *People of the State of California v. Robert Rizzo, et al.*

Case No.: Los Angeles County Superior Court, BC445497

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(Government Code Section 54956.9(a))

Name of Case: *Jane Doe v. City of Bell, et al.*

Case No.: Los Angeles County Superior Court, BC372406

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(Government Code Section 54956.9(a))

Name of Case: *Jane Doe v. City of Bell, et al.*

Case No.: United States District Court, Central District,
CV07-05705CAS(VBK)

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

(Government Code Section 54956.9(b))

Significant exposure to litigation upon the advice of the Interim City Attorney – two (2) potential cases.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Government Code Section 54957)
Title: Interim Chief Administrative Officer

The City Council reconvened to open session at 12:25 PM.

As to item 3.01, Councilman Mirabal did not participate, direction was given to the Interim City Attorney, no final action was taken.

As to item 3.02 and 3.03, direction was given to the Interim City Attorney, no final action was taken.

As to item 3.04, direction was given to Interim City Attorney.

As to item 3.05, direction was given to Interim CAO, no action was taken.

Adjournment

Special City Council meeting adjourned at 12:30 PM.

Rebecca Valdez, CMC
City Clerk

APPROVED:

Oscar Hernandez
Mayor

ATTEST:

Rebecca Valdez, CMC
City Clerk

Special Minutes of
Bell City Council
December 1, 2010

*Minutes of
Bell City Council
Bell Community Redevelopment Agency
Bell Community Housing Authority
Bell Public Finance Authority*

*December 13, 2010– 7:00 P.M.
Bell City Council Chambers
6330 Pine Avenue*

Meeting was called tor at 7:02:16 PM.

Present: Mayor Hernandez, Vice Mayor Jacobo, Councilman Mirabal and Councilman Velez

Absent: None

Also Present: Interim Chief Administrative Officer Carrillo, Interim City Attorney Casso, City Clerk Valdez, City Engineer Alvarado and Captain Finkelstein.

Pledge of Allegiance to the Flag, led by Steve Finkelstein, Captain.

Invocation led by Pedro Carrillo, Interim CAO.

Communications From The Public

7:03:41 PM Alfred Areyan, 7008 Vinevale Avenue, expressed concern about the bonds for Walker and Florence project.

7:05:17 PM Ismael Morales, 6527 Corona Avenue, expressed concern regarding the expenditures report and requested the Council to cut some services. He also expressed concern on items 3.14, 3.18, 3.07 and 3.02 through 3.04 should not do anything with the bond.

7:07:39 PM Juliana Sanchez, no address stated, expressed concern about the financial status and requested the Council to apologized to the city.

7:11:50 PM Miguel Sanchez, no address stated, expressed concern about renewing various contracts and expressed concern about the parking administration fees to city of Inglewood.

7:14:23 PM Janice Bass, 6812 Woodward Avenue, expressed concern about item 3.17.

7:15:14 PM Jaime Luna, 7111 Heliotrope Avenue, expressed concern about the situation in Bell.

7:18:47 PM Willie Aguilar, 6925 Walker Avenue, expressed concern about hiring an Assistant CAO.

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Bell Public Finance Authority
December 13, 2010

7:24:29 PM Coco Ceja, 6936 Prospect Avenue, expressed concern about hiring an Assistant CAO, the closing of City Hall.

7:28:13 PM Marcelino Ceja, 6936 Prospect Avenue, expressed concern about the trophies given out to soccer and expressed concern about the articles that have come out since July 15, 2010

7:31:58 PM Alfredo Vasquez, 4874 Gage Avenue, requested the Council to consider the petitions on new getting new management at the mobile home parks.

7:35:11 PM Carmen Bella, 6332 Palm Avenue, thank the Council for having a translator, expressed concern about a guy picking up the recyclables, expressed concern about code enforcement, expressed concern about the 10% utility tax and expressed concern about fixing the parks.

7:38:37 PM Jesus Casas, expressed concern about items 3.01 and 3.06.

7:41:23 PM City Council recessed.

8:40:43 PM City Council adjourned due to a lack of quorum.

Rebecca Valdez, CMC
City Clerk

APPROVED:

Oscar Hernandez
Mayor

ATTEST:

Rebecca Valdez, CMC
City Clerk