RESOLUTION NUMBER R- 303226

DATE OF FINAL PASSAGE DEC 1 2 2007

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ESTABLISHING A TOURISM MARKETING DISTRICT (TMD); LEVYING ASSESSMENTS UPON THE ASSESSED BUSINESSES FOR A PERIOD OF FIVE (5) YEARS; AUTHORIZING THE MAYOR OR HIS DESIGNEE, ON BEHALF OF THE CITY, TO ENTER INTO AN AGREEMENT WITH THE SAN DIEGO TOURISM PROMOTION CORPORATION FOR THE OPERATION OF THE TOURISM MARKETING DISTRICT; AND PRESCRIBING A METHOD FOR COLLECTION OF ASSESSMENTS.

WHEREAS, on May 22, 2007, the Council of the City of San Diego adopted Ordinance O-19622 N.S., an ordinance amending Chapter 6, Article 1 of the San Diego Municipal Code by adding Division 25, the San Diego Tourism Marketing District Procedural Ordinance; and

WHEREAS, on October 15, 2007, the Council adopted Resolution Number R-303077, "A Resolution of Intention to Establish a Tourism Marketing District; To Levy Assessments for a Period of Five (5) Years; To Direct the Mailing of Ballots to Affected Businesses; to Set Dates for a Noticed Public Meeting for the Purpose of Receiving Testimony and a Public Hearing to Count Ballots, Consider Protests and Establish the District; and to Approve the Tourism Marketing District (TMD) Management Plan"; and

WHEREAS, the Council on Tuesday, November 20, 2007 at 10:00 a.m. conducted a public meeting in City Council Chambers, 202 "C" Street, 12th Floor, San Diego, CA., on the proposed TMD, wherein testimony in favor of and opposed to the proposed levying of assessments was permitted; and

WHEREAS, the Council of the City of San Diego directed staff to provide notice of the time and place fixed for the hearing as Monday, December 3, 2007 at 2:00 p.m., at which time any person interested in stating support for or opposition to the proposed levy of assessments, the proposed amount of the assessments, or the proposed activities of the TMD, could provide testimony as provided for pursuant to Resolution No. R-303077, adopted on October 15, 2007, as referenced above; and

WHEREAS, the time allocated for the filing of ballots in support of or in opposition to the proposed levies has duly passed; and

WHEREAS, the City Clerk has informed the Council that she has verified that a weighted majority of the proposed assessees that cast ballots did not vote in opposition to the assessment and the establishment of the TMD, and, therefore, no majority protest exists; and

WHEREAS, the Council of the City of San Diego declared in the aforementioned Resolution its intention to establish the TMD should there not exist a majority protest after the period for balloting. NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the San Diego Tourism Marketing District (TMD) is hereby established, and shall be established for a period of five (5) years, commencing on January 1, 2008 and terminating on December 31, 2012, pursuant to the procedures included in San Diego Municipal Code section 61.2501 *et. seq.*, the San Diego Tourism Marketing District Procedural Ordinance.

BE IT FURTHER RESOLVED, that the Council does hereby declare that, on the basis that a weighted majority of the proposed assessees that cast ballots did not vote in opposition to the proposed assessments, the protests are hereby overruled, and the assessments as described

below and in the TMD Management Plan, on file in the Office of the City Clerk as Document No. RR-303226, are hereby levied upon the affected businesses.

BE IT FURTHER RESOLVED, that the Mayor or his designee, on behalf of the City, is hereby authorized to enter into an agreement with the San Diego Tourism Promotion Corporation, a California non-profit mutual benefit corporation, for the administration of the TMD pursuant to San Diego Municipal Code section 61.2524.

BE IT FURTHER RESOLVED, that;

Section 1. PROPOSED ACTIVITIES

The proposed activities of the TMD consist in general of those items described in the TMD Management Plan, on file in the Office of the City Clerk as Document No. RR-303226. Marketing programs and services will be broadly defined by the Board of the non-profit San Diego Tourism Promotion Corporation (SDTPC), the entity charged with administration of the TMD. It is expected that marketing programs and services will take many traditional and/or innovative forms. In addition, marketing programs and services will be developed in order to benefit all assessed hotels within the TMD through a diverse mix of projects, programs and activities. Pursuant to San Diego Municipal Code section 61.2523, a report of activities is to be presented to the San Diego City Council on an annual basis. In addition, a summary of the expenditures for the TMD for the prior fiscal year, as well as an assessment of actual or expected return on investment of TMD expenditures shall be provided annually.

Section 2. AMOUNT OF ASSESSMENTS

The assessment amount shall be, and shall not exceed, two (2) percent of gross room revenue, minus exempt revenues, for lodging businesses with seventy (70) or more sleeping

rooms located within the TMD. Gross room revenue is defined as the "total consideration charged to a transient, as shown on the guest receipt for the occupancy of a room, or portion thereof, in a hotel." For purposes of the collection of assessments, gross room revenue minus exempt revenues may also be referred to as "assessable rents."

Section 3. GROSS ROOM REVENUE FURTHER DEFINED

Gross room revenue shall also include such incidental items of consideration as equipment (i.e. rollaway beds, cribs, television sets, and similar items) and in-room services (i.e. movies and other services not subject to California taxes), valued in money, whether received or to be received in money, goods, labor or otherwise. Gross room revenue includes all receipts, cash, credits, property, and services of any kind or nature without any deduction therefrom.

Section 4. EXCLUSIONS FROM ASSESSABLE RENTS

For purposes of the TMD assessment, assessable rents shall exclude those revenues either:

(a) derived from a person who has exercised occupancy or was entitled to occupancy for more than one month where a month is defined as a period of consecutive days from the first calendar day of occupancy in any month to the same calendar day in the next month following, or the last day of the next month following if no corresponding calendar day exists; or

(b) where exempt by treaty or by Federal or State laws; or

(c) where the payment is made directly by the United States Government or the State of California or their respective instrumentalities; or

(d) where the total room rental charge is twenty-five dollars ($25.00) per day or less.

When calculating the assessment, transient occupancy taxes (TOT) due shall not be included.

Section 5. BOUNDARIES OF THE DISTRICT

The boundaries of the Tourism Management District shall be the entire corporate limits of the City of San Diego.

Section 6. OPERATIONS OF DISTRICT; AMENDMENT TO MUNICIPAL CODE

The operations of the TMD shall be modified pursuant to any amendments to San Diego Municipal Code section 61.2501 *et. seq.*, the San Diego Tourism Marketing District Procedural Ordinance.

Section 7. BENEFITS TO ASSESSED BUSINESSES

The activities to be provided and funded under the assessments levied by the TMD are intended to benefit the businesses within the TMD. Revenues from the levy of assessments shall not be used to provide activities that directly benefit businesses outside the district, nor may they be utilized for any purpose other than purposes specified in the resolution of intention to establish the TMD. With this action, the City Council hereby finds that businesses within the TMD will be benefited by the activities funded by the assessments levied herein.

Section 8. ASSESSMENTS, IF PASSED ON TO TRANSIENT, MUST BE IDENTIFIED IN ANY AND ALL COMMUNICATIONS

Assessments imposed pursuant to the TMD are levied solely upon the assessed business, and the business owner or operator is solely responsible for payment of the assessment when due. If the owner or operator chooses to collect any portion of the assessment – up to and not to exceed two (2) percent of the assessable rent – from a transient, that portion shall be specifically

called out and identified for the transient in any and all communications from the business owner as a "San Diego Tourism Marketing District Assessment."

Section 9. COLLECTION OF ASSESSMENTS

The City Treasurer shall be responsible for the collection of the assessments levied under the TMD. Assessments submitted shall state the amount of the "assessable rent" being remitted. Remittances to the City Treasurer shall be at a rate of two (2) percent of the assessable rent.

Section 10. BUSINESS OWNER DUTIES AND ACCOUNTING PROCEDURES

The business owner shall be responsible for the submission of the TMD assessments pursuant to the requirements of this Resolution and the TMD Procedural Ordinance, San Diego Municipal Code [Code] section 61.2501 *et. seq.*. For purposes of this resolution, "business owner" shall mean the party responsible for the remitting and reporting of Transient Occupancy Taxes (TOT), and shall be as defined in Code section 61.2504.

(a) If passed on to the transient, the amount of the assessment, not to exceed two (2) percent of the assessable rent, shall be separately stated from the amount of room rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. A duplicate of the receipt given to each transient shall be kept by the business in accordance with subsection (c) below.

(b) Each business shall account separately for, and maintain separate monthly summary totals for, taxable and non-taxable rent and for any assessments collected.

(c) Each business shall maintain its financial and accounting records in accordance with established accounting principles acceptable to the City Treasurer. It shall be the duty of every business liable for the payment to the City of any assessment

imposed to keep and preserve, for a period of three years within the boundaries of this City, all business records as may be necessary to determine the amount of such assessment for which the business is liable for payment to the City. The City Treasurer and authorized deputies or agents in the exercise of duties imposed shall have the right to inspect such records at all reasonable times and to apply auditing procedures necessary to determine the amount of assessment due. It shall be unlawful to refuse to allow or to permit such audit to be conducted after a lawful demand therefor by the City Treasurer or the City Treasurer's duly-authorized City employee.

(a) The costs of additional goods and services, which are not room rent, but which may be sold as a package, or are complimentary with a room, or portion thereof, in a business, shall be accounted for in accordance with any administrative rules and regulations promulgated by the City Treasurer.

(b) If, for any reason, the business owner fails to remit the assessment due pursuant to this Resolution, and the business owner has chosen to pass the assessment on to the transient, then the City shall assert the business owner's full responsibility for payment of the TMD assessments due.

(e) If, for any reason, a business owner passes on a TMD assessment to a transient at a TMD rate greater than the two (2) percent of assessable rent, it shall be the business owner's responsibility to refund or credit to the transient any assessments in excess of two (2) percent of assessable rent improperly collected.

Section 11. TIME AND MANNER FOR LEAVING THE ASSESSMENTS – REMITING AND REPORTING REQUIREMENTS

(a) Each business owner shall remit monthly the full amount of the assessment owed for the previous month utilizing the appropriate approved return form available from the City Treasurer. This obligation shall be effective from January 1, 2008 through December 31, 2012, the initial duration of the TMD established under this Resolution.

(b) Returns and assessments remitted monthly by a business owner and actually received by the City Treasurer on or before the last day of the following month shall be deemed timely filed and remitted; otherwise, the assessments are delinquent and subject to the penalties imposed as described in Section 15 below.

(c) Returns shall be made by each business owner on a calendar month basis unless a reporting basis other than a calendar month reporting period is approved by the City Treasurer. A business owner that desires to utilize a reporting period other than a calendar month reporting period must request and obtain written approval from the City Treasurer prior to the implementation of such reporting plan.

(d) Each business owner reporting on a calendar month basis shall submit, on or before the last day of the following month, a return on the appropriate approved forms to the City Treasurer of the total assessable rent and the amount of the assessment due. At the time the return is filed, the full amount of the balance of the assessment due shall be remitted to the City Treasurer.

(e) Each business owner reporting on an approved basis other than a calendar month basis shall submit, on or before the same day of the next month following the

close of such reporting period, or on the last day of that month if no corresponding calendar day exists, a return on the appropriate approved forms to the City Treasurer of the total assessable rent and the amount of the assessment due. At the time the return is filed, the full amount of the balance of the assessment due shall be remitted to the City Treasurer.

(f) Returns filed and assessments remitted by mail shall be deemed timely filed only if the envelope or similar container enclosing the returns and assessments is addressed to the City Treasurer, has sufficient postage, and bears a United States postmark or a postage meter imprint prior to midnight on the last day for reporting and remitting without penalty. If the envelope or other container bears a postage meter imprint as well as a United States Post Office cancellation mark, the latter shall govern in determining whether the filing and remittance are timely.

(g) All returns and payments submitted by each business owner shall be treated as confidential by the City Treasurer and shall not be released except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of California, the County of San Diego, or the City of San Diego for official use only.

(i) The same basis for accounting used by a business owner for keeping books and records shall be used for reporting and remitting.

Section 12. REMITTING AND REPORTING REQUIREMENTS UPON CESSATION OF BUSINESS

(a) A business owner transferring, selling or terminating its business shall notify the City Treasurer in writing of such sale, transfer or termination and the name and

address of the purchaser or transferee at least thirty (30) days in advance of the date of transfer, sale or termination, unless the decision to sell, transfer or terminate was made within less than a thirty (30) day period prior to the transfer, sale or termination, in which case the business owner shall then immediately notify the City Treasurer. The business owner shall, at the same time, notify the purchaser or transferee of seller or transferor's responsibility for unpaid assessments and shall further certify in writing to the City Treasurer that the transferee or purchaser was notified of the requirements of this resolution regarding the business owner's responsibility for unpaid assessments.

(b) Upon cessation of business, each business owner shall, on or before the same day of the next month following the cessation of business or on the last day of that month if no corresponding day exists, make a return to the City Treasurer on approved forms of the total assessable rents charged, the amount of assessments owed for the reporting period, remittances made, if any, and the balance of the assessment due. At the time the return is filed, the full amount of the balance of the assessment due, if any, shall be remitted to the City Treasurer. After filing the final return and remitting the balance due, the business owner shall make his records of account available for a closeout audit by the City Treasurer or duly authorized City employee. Returns filed and assessments remitted and actually received by the City Treasurer on or before the same day of the next month following the cessation of business or on the last day of that month, if no corresponding calendar day exists, shall be deemed timely filed and remitted;

otherwise, the assessments are delinquent and subject to the penalties imposed pursuant to Section 15 below.

(c) Terms of liability of the business transferee or purchaser for TMD assessments owed by the transferor or seller are set forth in Sections 13 and 14 below.

(d) Any business owner who fails to comply with the provisions of subsections (a) or (b) above may be subject to appropriate criminal, civil or administrative remedies.

Section 13. DUTY OF SUCCESSOR OF BUSINESS OWNER

If a business owner who is liable for any assessment or penalties under this Resolution sells or otherwise disposes of his business, his successor shall notify the City Treasurer of the date of sale at least thirty (30) days before the date of sale or, if the decision to sell was made less than thirty (30) days prior to the actual sale, then immediately and shall withhold a sufficient portion of the purchase price to equal the amount of such assessment or penalty until the selling business owner produces a receipt from the City Treasurer showing that the assessment or penalty has been paid or an assessment clearance certificate from the City Treasurer stating that no assessment or penalty is due. If the seller of the business does not present a receipt or assessment clearance certificate within thirty (30) days after a successor business owner commences business, the successor shall deposit the withheld amount with the City Treasurer pending settlement of the account of the seller.

Section 14. LIABILITY OF SUCCESSOR FOR FAILURE TO WITHHOLD: NOTICE OF AMOUNT DUE

If the successor to the business owner fails to withhold a portion of the purchase price as required, it shall be liable to the City for the payment of the amount required to be withheld.

Within thirty (30) days after receiving a written request from the successor for an assessment clearance certificate stating that no assessment or penalty is due, the City Treasurer shall either issue the certificate or mail notice to the successor at its address as it appears on the records of the City Treasurer of the estimated amount of the assessment and penalty that must be paid as a condition of issuing the certificate.

Section 15. PENALTIES

Should any business fail to pay assessments to the City Treasurer as required under San Diego Municipal Code section 61.2501 *et. seq.* or this Resolution of Establishment, such businesses are subject to the following penalties in the event of delinquency, fraud or audit deficiencies:

(a) Delinquency. Any business owner who fails to remit any assessment imposed by this Resolution within the time required shall pay a penalty computed at the rate of one percent (1%) for the first day of delinquency and one–third of one percent (1/3 of 1%) for each day thereafter, including Saturdays, Sundays, and holidays, but not to exceed twenty–five percent (25%) of the amount of the assessment due and payable for the entire reporting period in addition to the amount of the assessment.

(b) Fraud. If the City Treasurer determines that the nonpayment of any remittance due under this resolution is due to fraud, a penalty of twenty–five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in subparagraph (a) of this section.

(c) Audit Deficiency. If, upon audit by the City, a business owner is found to be deficient in either its return or its remittance, or both, the City Treasurer shall

immediately invoice the business owner for the amount of the net deficiency plus a penalty of ten percent (10%) of the net deficiency. If the business owner fails or refuses to pay the deficient amount and applicable penalties within fourteen (14) days of the date of the City Treasurer's invoice, an additional penalty shall be imposed at the rate of one–third of one percent (1/3 of 1%) per day of the net deficiency, not to exceed fifteen percent (15%) for a combined total penalty not to exceed twenty–five percent (25%) of the net deficiency.

Section 16. FAILURE TO REPORT ASSESSMENTS DUE — JEOPARDY DETERMINATION

(a) Determination of Assessments Due by City Treasurer. If any business owner shall fail or refuse to remit the assessment or to make, within the time provided in this Resolution, any report or remittance of said assessment or any portion thereof required by this Resolution or if such business owner maintains records which are inadequate to show the amount of assessment due, the City Treasurer shall forthwith determine the assessment due and penalties provided for by this Resolution against the business owner.

(b) Jeopardy Determinations. When a business owner fails or refuses to make or file a timely return or remittance of assessments due, or when the City Treasurer or duly authorized employee makes a determination, after having applied necessary and accepted auditing procedures or by estimation if no records are available, that a business owner is or will be unable to remit any assessments due at the prescribed time, the City Treasurer may make a written Jeopardy Determination which shall be issued to the business owner to require the business owner to thereafter furnish

additional information or provide adequate security as necessary to ensure receipt by the City of any assessments due or to become due, and to remit the assessments on a daily or weekly basis. The business owner shall thereafter report and remit all assessments due under the terms and conditions prescribed by the City Treasurer. The City Treasurer shall cancel the requirements imposed under the Jeopardy Determination once timely accounting and remittance procedures have been established and the business owner is satisfying all obligations imposed by law for the remittance of assessments.

(c) Notice. The City Treasurer shall deliver notice of the assessment due or of the Jeopardy Determination to the business owner or deposit it in the United States mail, postage prepaid, addressed to the business owner at the last known place of business.

(d) Penalties collected pursuant to this Section shall be returned to the TMD fund, while any direct administrative costs accrued by the City Treasurer or other City departments for the recovery of TMD assessments and penalties due prior to a referral to the City Treasurer's Collections Division may be charged to the TMD fund as a portion of the City's allowable costs for administration of the TMD.

(e) If TMD remittances become delinquent and the City Treasurer makes a determination to refer that delinquency to the Treasurer's Collections Program, any additional costs incurred, including the Collections Program's referral fees and interest, shall be chargeable to and payable by the business operator and shall not be a liability of the TMD under any circumstances.

Section 17. ADMINISTRATIVE REMEDIES OR APPEALS

(a) The business owner may, within fourteen (14) days after the serving or mailing of such notice of assessment due or Jeopardy Determination, make application in writing to the City Treasurer for a hearing on the amount assessed as due. If timely application for a hearing is not made, the assessment due and penalties as determined by the City Treasurer shall become final and conclusive and immediately due and payable. If such application is made, the City Treasurer shall give not less than five (5) days written notice in the manner prescribed herein to the business owner of the time and place for a hearing before a board consisting of the City Treasurer, the City Auditor and Comptroller and the Financial Management Director or the duly-appointed deputy of each. At the hearing, the business owner may appear and offer evidence why the specified amount due and penalties should not be so fixed. The board shall consider all evidence produced and shall determine the proper assessment to be remitted. After the hearing, the City Treasurer shall give written notice to the business owner in the manner prescribed herein of the determination and the amount of such assessment due and penalties. If the amount remaining in dispute thereafter does not exceed $750.00, the decision of the hearing board shall be final and conclusive and shall constitute the exhaustion of the business owner's administrative remedies. Any amount found to be due shall be payable within fourteen (14) days of the serving or mailing of the determination of the assessment due unless a further appeal is filed with the Mayor as provided in this section within that fourteen (14) day period for any amount in excess of $750.00.

(b) When an appeal from the hearing board for remaining assessments and penalties exceeding $750.00 is filed, the Mayor shall cause the appeal to be assigned to a Hearing Officer, who shall schedule a hearing to be heard within a reasonable time thereafter. The Hearing Officer shall be appointed by the Mayor, shall be a member of the California State Bar and shall not be a City employee. The Hearing Officer shall be compensated by The City of San Diego for the time spent on deciding an appeal, with such compensation chargeable to the TMD fund as a portion of the City's allowable costs for administration.

(c) The appellant and the Mayor or Mayoral designee shall each have the right to appear in person and be represented by legal counsel, to receive notice, to present evidence, to call and cross–examine witnesses under oath and to present argument. The Hearing Officer shall have the power to compel attendance of witnesses and documents by Subpoena in accordance with the Civil Code. The formal rules of evidence shall not apply and any relevant evidence that is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious business affairs shall be admissible. Hearsay evidence may be considered by the Hearing Officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and competent evidence. The formal exceptions to the hearsay rule shall apply.

(d) The Hearing Officer is authorized to rule upon issues of law or fact and to determine the amount of the assessment due or penalty in accordance with this Resolution. The Hearing Officer shall not have any jurisdiction to waive, mitigate

or suspend the City's collection of any assessment due or penalty found to be duly imposed.

(e) The decision of the Hearing Officer shall be issued in writing no later than fourteen (14) days after the conclusion of the hearing. The decision shall be the final administrative remedy of the appellant and shall be binding upon the Mayor and any Mayoral designee. Any amounts due shall be immediately payable to the City Treasurer.

(f) The Mayor or Mayoral designee shall promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings and the preparation and submission of the record.

Section 18. REFUNDS

(a) Whenever the amount of any assessment due or penalty has been overpaid, paid more than once or erroneously received by the City under the procedures prescribed in this Resolution, the overpayment may be refunded provided a claim in writing under penalty of perjury stating the specific grounds upon which the claim is founded is filed with the City Treasurer within three years of the date of payment. The claim shall be on forms available from the City Treasurer.

(b) A business owner may claim a refund or take as a credit against assessments remitted the amount overpaid or paid more than once when it is established in a manner prescribed by the City Treasurer that the assessments remitted were derived from assessable rents which should have been deemed exempt from an assessable rent calculation pursuant to Section 4 above; provided, however, in the event the business owner passed the assessment onto a transient, that neither a

refund nor a credit shall be allowed by the City unless the amount of the assessment passed on has either been refunded to the transient or credited to rent subsequently payable by the transient to the business owner.

(c) A transient may obtain a refund of assessments overpaid or paid more than once or erroneously received by the City by filing a claim in the manner provided in subparagraph (a) of this section, but only when the transient having paid the assessment to the business owner establishes to the satisfaction of the City Treasurer that the transient has been unable to obtain a refund from the business owner who had passed on the assessment to the transient and then remitted the assessment to the City.

(d) A business owner who has remitted an amount in excess of the amount required to be paid by this resolution may receive a credit to the extent of the excess. If the excess is discovered as a result of an audit by the City, no claim need be filed by the business owner. Such credit, if approved by the Treasurer, shall be applied to any deficiency found or any further assessment payments due under the rules prescribed by the Treasurer.

(e) No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.

Section 19. ACTIONS TO COLLECT ASSESSMENTS DUE

Any business owner owing money to the TMD, as collected by the City Treasurer under the provisions of this Resolution, shall be liable to an action brought in the name of The City of San Diego for the recovery of such amount due the TMD. Upon the concurrence of the City Attorney and the City Auditor and Comptroller, the City Treasurer is authorized to compromise

the collection of the amount due or establish a schedule of payment for any assessments due, or to discontinue the collection of any claim if it appears that further proceedings would be without merit.

Section 20. VIOLATIONS

Any business owner who willfully fails to file any return required by this Resolution, or who files a false return, or who willfully fails or refuses to remit any assessment due, or who refuses to allow an audit to be conducted, may be subject to appropriate criminal, civil or administrative remedies.

Section 21. TREASURER'S REGULATIONS AND ENFORCEMENT AUTHORITY

The City Treasurer is hereby authorized to may promulgate reasonable rules, interpretations and regulations to implement and enforce the provisions of this Resolution.

BE IT FURTHER RESOLVED, that, upon the adoption of this Resolution, the City Clerk is hereby directed to record a notice of the levying of the assessments and map of the TMD district pursuant to San Diego Municipal Code section 61.2512.

BE IT FURTHER RESOLVED, that if any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution, or any part thereof is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

BE IT FURTHER RESOLVED, that the Council does hereby declare that this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Alex W. Sachs
Deputy City Attorney

AWS:mm
11/27/07
Or.Dept:CPCI
R-2008-451
MMS#5605

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of DEC - 3 2007.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: 12-12-07
(date)

_____
JERRY SANDERS, Mayor

Vetoed: _____
(date)

_____
JERRY SANDERS, Mayor

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