

**This packet contains  
Agenda Item Nos. 5.1 thru 6.6.**

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**STAFF REPORT  
CITY OF IMPERIAL BEACH**

**TO: HONORABLE MAYOR AND CITY COUNCIL**  
**FROM: GARY BROWN, CITY MANAGER**

**MEETING DATE: JANUARY 20, 2010**  
**ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT**  
**GREG WADE, COMMUNITY DEVELOPMENT DIRECTOR**  
**HANK LEVIEN, PUBLIC WORKS DIRECTOR**  
**JIM NAKAGAWA, AICP, CITY PLANNER**

**SUBJECT: PUBLIC HEARING: CITY OF IMPERIAL BEACH/PUBLIC WORKS DEPARTMENT: REGULAR COASTAL DEVELOPMENT PERMIT (CP 090023) DESIGN REVIEW (DRC 090024), SITE PLAN REVIEW (SPR 090025), AND MITIGATED NEGATIVE DECLARATION (EIA 090026/SCH#2009121003), FOR A SKATEBOARD PARK LOCATED AT SPORTS PARK, 425 IMPERIAL BEACH BLVD, IN THE PUBLIC FACILITY (PF) ZONE. MF 1019**

**PROJECT DESCRIPTION/BACKGROUND:**

This is a City-initiated application for Regular Coastal Development Permit (CP 090023), Design Review (DRC 090024), Site Plan Review (SPR 090025), and a Mitigated Negative Declaration (EIA 090026/SCH#2009121003) for the installation of a 7100 square foot skateboard park on a city-owned 7.98 acre parcel (APN 632-400-35-00) at 425 Imperial Beach Blvd (Sports Park) in the Public Facility (PF) Zone. This facility would be located south of the Sports Park Recreation Center, on the east half of the basketball court, and west of Saint Mary's Episcopal Church.



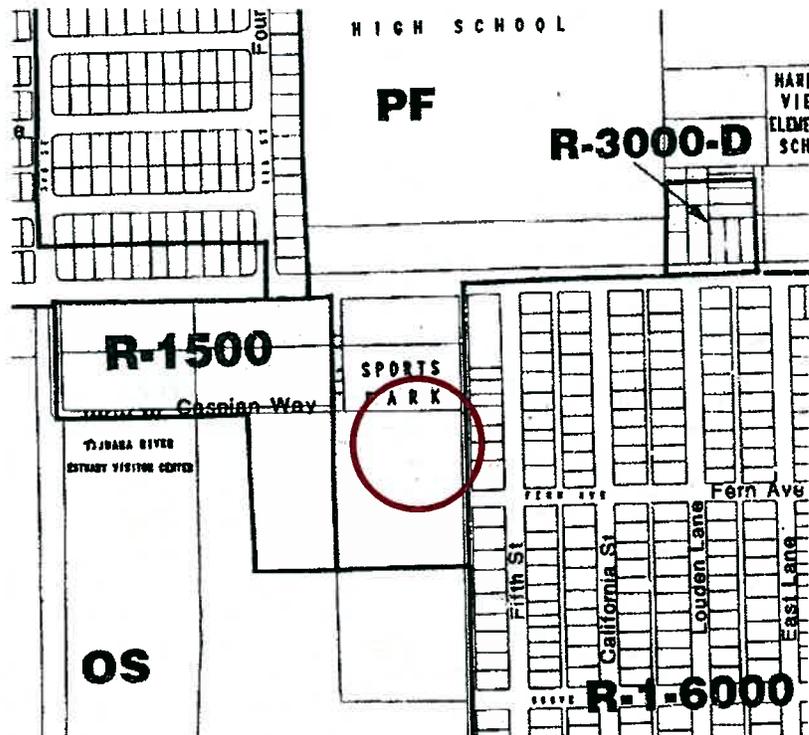
In 1998, the City, with significant assistance from local community members, installed a 5,000 square foot wooden skate park in the Sports Park Recreation Center gymnasium. About five years later, this facility was moved outdoors to the fenced patio area in order to re-use the gymnasium for basketball and other activities. In 2005, the skate park was dismantled as the wooden components had significant moisture rot and stress damage and had deteriorated to the point of being unsafe.

On August 3, 2005, the City Council appointed Mayor Rose and Councilmember McLean to a subcommittee to review the Sports Park CIP and offer recommendations on the location and funding of a new skate park. On August 16, 2006, the City Council adopted Resolution No. 2006-6388 that established CIP priorities for Sports Park and made budget adjustments affecting Skate Park funding. SITE Design Group of Solana Beach conducted a feasibility study of various locations for a skate park and presented their findings to the City Council on January 16, 2008. The City Council voted to select Site B (the eastern half of the outdoor basketball court in Sports Park).

On May 6, 2009, the City Council authorized the City Manager to execute a contract with a skate park designer not to exceed \$35,000. Grindline Skateparks Inc. was selected to design the Imperial Beach Skateboard Park at Sports Park and the contract was executed on June 1, 2009. Gindline held a community meeting on June 25, 2009 seeking input from the community for the design of the skate park. Gindline then presented a concept proposal at a community meeting held on August 6, 2009 that was supported by the community. This design was presented to the City Council on August 19, 2009 which was also well received but the question of funding the project was a topic of discussion. At the November 2, 2009 Workshop, the City Council spoke in favor of a \$850,000 loan to the Redevelopment Agency from General Fund reserves to fund certain priority projects, including the Skate Park. On December 16, 2009, the City Council/Redevelopment Agency authorized the acceptance of community donations and budget amendments that authorized \$200,000 of non-housing redevelopment (RDA) funds for the Skate Park project.

**PROJECT EVALUATION/DISCUSSION:**

The project site is a 7.98 acre lot that is developed as a public park (Sports Park). The parcel is designated Public Facility (PF). This skate park facility would be located south of the Sports Park Recreation Center, on the east half of the basketball court, and west of Saint Mary's Episcopal Church. The eastern half (about 2500 square feet) of the outdoor basketball court is to be removed to accommodate the 7100 square foot skate park.



**General Plan/Local Coastal Plan/Zoning Consistency:** The proposed development conforms to the PF Zone of the Land Use Element and the Coastal Policies of the General Plan/Local Coastal Plan.

**19.24.020. Permitted uses.**

The following uses are permitted in the Public Facilities (PF) zone:

- A. Public parks, playgrounds, athletic fields, gardens, tennis courts, swimming pools;
- B. Public school facilities;
- C. Civic center facilities;
- D. Public parking facilities;
- E. Buildings and facilities owned or operated by a governmental or quasi-public agency;
- F. Public and/or municipal recreation facilities;
- G. Public library;
- H. Public riding and hiking trails. (Ord. 2003-997 § 1 (part), 2003; Ord. 2002-983 §§ 19, 20, 2002; Ord. 94-884, 1994; Ord. 601 § 1 (part), 1983)

**19.24.030. Development standards.**

Any proposed development or use shall be subject to the site plan review process as designated in Chapter 19.81 of this title. Upon completion of all required application forms, the Planning Commission shall hold a noticed public hearing. The site plan review process shall determine all applicable setbacks, lot coverage, building height, parking, siting, signs and other standards required to assure compatibility with the surrounding lands and uses. A finding must also be made that the application is in conformance with the applicable elements of the City of Imperial Beach General Plan and the Coastal Land Use Plan. (Ord. 94-884, 1994; Ord. 601 § 1 (part), 1983)

**Surrounding Zoning and Land Use**

North	Public Facility (PF)	Sports Park Recreation Center, Mar Vista High School
South	Public Facility (PF) and Open Space (OS)	Softball fields, Tijuana River Estuary
East	R-1-6000 (Single-Family Residential)	St Mary's Episcopal church, houses
West	Public Facility (PF) and R-1500 (High Density Residential)	Basketball court, picnic tables, apartments

**Storm Water/Urban Runoff Regulations.** The proposed skate park is characterized as a hardscape facility whose extent in creating additional impervious surfaces would qualify it as a "priority project" pursuant to existing storm water regulations and would be subject to the City's Standard Urban Storm Water Mitigation Plan (SUSMP: IBMC Chapter 8.32). However, the San Diego Regional Water Quality Control Board issued on January 24, 2007, the new municipal storm water National Pollutant Discharge Elimination System (NPDES) permit (Order No. R9-2007-0001, NPDES No. CAS0108758) that requires the adoption of a new SUSMP ordinance by San Diego local governments (copermitees).

The requirement to implement a program for development planning is based on Federal and State Statutes including: Section 402 (p) of the Clean Water Act, Section 6217 of the Coastal

Zone Act Reauthorization Amendments of 1990 ("CZARA"), and the California Water Code. The Clean Water Act amendments of 1987 established a framework for regulating urban runoff discharges from municipal, industrial, and construction activities under the NPDES program. The municipal permit requires the implementation of a Jurisdictional Urban Runoff Management Program (JURMP) and the adoption of a local SUSMP that incorporates the minimum (Low Impact Development (LID) and Best Management Practices (BMP) requirements developed in the Countywide Model SUSMP document. The City of Imperial Beach will consider the adoption of the updated SUSMP ordinance sometime early in 2010.

The proposed SUSMP ordinance makes a change in the definition of:

Environmentally Sensitive Areas (ESAs). All development located within or directly adjacent to or discharging directly to an ESA (where discharges from the development or redevelopment will enter receiving waters within the ESA), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition. "Directly adjacent" means situated within 200 feet of the ESA. "Discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

This change would declassify the proposed skate park facility as a "priority development project" and, therefore, would not subject the project to SUSMP regulations. The final design for the skate park will need to demonstrate that runoff from the facility will be in compliance with the City's updated storm water regulations that are in effect at the time ministerial permits are issued and construction starts for the skate park project.

Revised 8/18/09



**Design Review:** While this facility does not front along Imperial Beach Boulevard, a designated Design Corridor, it is situated in a public park that is a popular public venue. The placement of the skate park on the eastern half of the basketball court would necessitate the removal of three small trees along the southern perimeter that would otherwise threaten the integrity of the concrete structure. While there are a variety of designs for skate parks throughout the country, there are some standard forms and shapes that appear to be common components with many of the facilities. The budget and site location were constraints as to the size of the skate park. The facility designer, Grindline Skateparks Inc., held community meetings to obtain public input into its design. The conceptual design that was developed was presented to the community and to the City Council and was well received. On December 17, 2009, the Design Review Board adopted (Bowman/Lopez: 4-0-1) DRB Resolution No. 2009-03 recommending approval of the project design.

**ENVIRONMENTAL DETERMINATION:** Attached is the Final Mitigated Negative Declaration (MND) along with the Mitigation Monitoring and Reporting Program (MMRP) for the IB Skate Park Project (MF 1019). The availability of the draft MND was advertised in the IB Eagle and Times for public review that ran from December 3, 2009 to January 4, 2010. It was also routed through the State Clearinghouse (#2009121003) for state agency review (from December 2, 2009 to January 4, 2010) and distributed to the US Fish and Wildlife Service, the Coastal Commission, and the California Parks and Recreation Department requesting comments. No comments were received from the public and one letter from the Native American Heritage Commission was received after the comment period; one comment from Public Works Director Hank Levien regarding storm water regulations was received. Responses to comments are included for the Final MND.

**COASTAL JURISDICTION:** The project is located in the Appeal Jurisdiction of the California Coastal Commission as indicated on the Local Coastal Program Post Certification and Appeal Jurisdiction Map and, as such, the coastal development permit (CP 090023) is subject to appeal to the California Coastal Commission under Section 30603(a) of the California Public Resources Code.

**FISCAL ANALYSIS:**

The cost estimate for the construction of this project is \$254,860 plus \$27,360 for the Grindline Skateparks contract and \$49,100 for project administration for a total cost of \$331,320. Maintenance and staff costs to maintain the skate park is estimated to be about \$5,000 per year. Funding for the project (\$343,200) will come from Lords of Dogtown (\$15,000), San Diego County (\$100,000), the Tony Hawk Foundation (\$10,000), Cox (\$1,000), EDCO (\$5,100), \$12,100 (community



donations, etc.) and \$200,000 from RDA Tax Increment (non-housing) funds.

**DESIGN REVIEW BOARD RECOMMENDATION:**

On December 17, 2009, the Design Review Board adopted (Bowman/Lopez: 4-0-1) DRB Resolution No. 2009-03 recommending approval of the project design.

**DEPARTMENT RECOMMENDATION:**

1. Open the public hearing.
2. Receive report and public comments.
3. Close the public hearing; and
4. Adopt Resolution No. 2010-6836, approving Coastal Development Permit (CP 090023), Design Review (DRC 090024), Site Plan Review (SPR 090025), and Environmental Assessment/Mitigated Negative Declaration (EIA 090026/SCH#2009121003) for the installation of a 7100 square foot skateboard park on a city-owned 7.98 acre parcel (APN 632-400-35-00) at 425 Imperial Beach Blvd (Sports Park) in the Public Facility (PF) Zone, which makes the necessary findings and provides conditions of approval in compliance with local and state requirements.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department recommendation.



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Gary Brown, City Manager

**Attachments:**

1. Resolution 2010-6836
2. Plans
3. Final Mitigated Negative Declaration including Responses to Comments and Mitigation Monitoring and Reporting Program

c: file MF 1019

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Trevor Promnitz, Buccola Engineering, Inc., 3142 Vista Way, Suite 301, Oceanside, CA 92056 [Trevor@BuccolaEng.com](mailto:Trevor@BuccolaEng.com)

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## RESOLUTION NO. 2010-6836

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPROVING REGULAR COASTAL DEVELOPMENT PERMIT (CP 090023), DESIGN REVIEW (DRC 090024), SITE PLAN REVIEW (SPR 090025), AND MITIGATED NEGATIVE DECLARATION (SCH# 2009121003) FOR A 7100 SQUARE FOOT SKATEBOARD PARK AT SPORTS PARK, 425 IMPERIAL BEACH BLVD. MF 1019**

**APPLICANT: CITY OF IMPERIAL BEACH**

**WHEREAS**, on January 20, 2010, the City Council of the City of Imperial Beach held a duly advertised public hearing to consider the merits of approving or denying an application for Regular Coastal Development Permit (CP 090023), Design Review (DRC 090024), Site Plan Review (SPR 090025), and a Mitigated Negative Declaration (EIA 090026/SCH#2009121003) for the construction of a 7100 square foot skate park on a city-owned 7.98-acre parcel (APN 632-400-35-00) at Sports Park, 425 Imperial Beach Boulevard in the Public Facility (PF) Zone. The site is legally described as follows:

Parcel 1: The North 390.00 feet of the West Half of the Southeast Quarter of Section 30, Township 18 South, Range 2 West, San Bernardino Base and Meridian, in the City of Imperial Beach, County of San Diego, State of California, according to United States Government Survey. Excepting therefrom the West 960.00 feet thereof. Also excepting therefrom any and all street openings.

Parcel 2: The South 515.00 feet of the North 905.00 feet of the East 423.00 feet of the West Half of the Southeast Quarter of Section 30, Township 18 South, Range 2 West, San Bernardino Base and Meridian, in the City of Imperial Beach, County of San Diego, State of California, according to United States Government Survey; and

**WHEREAS**, on December 17, 2009, the Design Review Board adopted (Bowman/Lopez: 4-0-1) DRB Resolution No. 2009-03 recommending approval of the project design; and

**WHEREAS**, the City Council finds that the project is consistent with the Public Facility (PF) designation of the General Plan and is in substantial compliance with Policy D-8 of the Design Element of the General Plan/Local Coastal Plan, which promotes project design harmonious with nearby uses; and

**WHEREAS**, this project complies with the requirements of the California Environmental Quality (CEQA) as the draft Mitigated Negative Declaration (MND) was prepared for this project and advertised in the IB Eagle and Times for availability during the public review period from December 3, 2009 to January 4, 2010; routed through the State Clearinghouse (#2009121003) for state agency review from December 2, 2009 to January 4, 2010; distributed to the US Fish and Wildlife Service, the Coastal Commission, and California Department of Parks and Recreation requesting comments; and

**WHEREAS**, this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis; that the decision-making body has, pursuant to CEQA Guidelines Section 15074(b), reviewed and considered the information contained in the Final

Mitigated Negative Declaration and the comments received during the public review period; that revisions in the project plans or proposals made by or agreed to by the project applicant, pursuant to CEQA Guidelines Section 15070(b)(1), would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and that, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) there is no substantial evidence that the project as proposed, as conditioned, or as revised, will have a significant effect on the environment; and

**WHEREAS**, the City of Imperial Beach, as lead agency, has considered, pursuant to Section 21096(b) of Division 13 California Environmental Quality Act (CEQA) of the Public Resources Code, and finds that the skateboard park project will not result in a safety hazard or noise problem for persons using the Naval Outlying Land Field or for persons residing or working in the project area; and

**WHEREAS**, the City Council further offers the following findings in support of its decision to conditionally approve the project:

**SITE PLAN REVIEW FINDINGS:**

- 1. The proposed use does not have a detrimental effect upon the general health, welfare, safety and convenience of persons residing or working in the neighborhood, and is not detrimental or injurious to the value of property and improvements in the neighborhood.**

The skateboard park project is proposed in an existing public park (Sports Park). This skate park facility would be located south of the Sports Park Recreation Center, on the east half of the basketball court, north of the softball fields, and west of Saint Mary's Episcopal Church. These nonresidential uses are compatible with each other. Traffic, parking, and noise studies have shown that impacts would not be significant.

- 2. The proposed use will not adversely affect the General Plan/Local Coastal Plan.**

The subject site is zoned Public Facility (PF) and the proposed improvements for the skateboard park are consistent with the PF designation.

- 3. The proposed use is compatible with other existing and proposed uses in the neighborhood.**

The skateboard park project is proposed in an existing public park (Sports Park) that is zoned PF (Public Facility). This skate park facility would be located south of the Sports Park Recreation Center, on the east half of the basketball court, north of the softball fields, and west of Saint Mary's Episcopal Church. These nonresidential uses are compatible with each other. Traffic, parking, and noise studies have shown that impacts would not be significant.

- 4. The location, site layout and design of the proposed use properly orients the proposed structures to streets, driveways, sunlight, wind and other adjacent structures and uses in a harmonious manner.**

The skateboard park project is proposed in an existing public park (Sports Park). This skate park facility would be located south of the Sports Park Recreation Center, on the east half of the basketball court, north of the softball fields, and west of Saint Mary's Episcopal Church. These nonresidential uses are compatible with each other. Traffic, parking, and noise studies have shown that impacts would not be significant.

**5. The combination and relationship of one proposed use to another on the site is properly integrated.**

This finding is not applicable as this project consists of one recreational use, i.e. a skateboard park.

**6. Access to and parking for the proposed use will not create any undue traffic problems.**

The skateboard park is proposed to be installed at an existing public park (Sports Park) where public access is currently provided. A parking study was conducted for this project and has demonstrated that any parking and traffic impacts would be insignificant. Many of the skate park patrons skate to the facility or are dropped off at the park by their parents.

**7. The project complies with all applicable provisions of Title 19.**

The proposed skateboard park development (which is a public recreational facility) conforms to the PF (Public Facility) Zone of the Land Use Element and the Coastal Policies of the General Plan/Local Coastal Plan.

**19.24.020. Permitted uses.**

The following uses are permitted in the Public Facilities (PF) zone:

- A. Public parks, playgrounds, athletic fields, gardens, tennis courts, swimming pools;
- B. Public school facilities;
- C. Civic center facilities;
- D. Public parking facilities;
- E. Buildings and facilities owned or operated by a governmental or quasi-public agency;
- F. Public and/or municipal recreation facilities;
- G. Public library;
- H. Public riding and hiking trails. (Ord. 2003-997 § 1 (part), 2003: Ord. 2002-983 § 19, 20, 2002; Ord. 94-884, 1994; Ord. 601 § 1 (part), 1983)

**19.24.030. Development standards.**

Any proposed development or use shall be subject to the site plan review process as designated in Chapter 19.81 of this title. Upon completion of all required application forms, the Planning Commission shall hold a noticed public hearing. The site plan review process shall determine all applicable setbacks, lot coverage, building height,

parking, siting, signs and other standards required to assure compatibility with the surrounding lands and uses. A finding must also be made that the application is in conformance with the applicable elements of the City of Imperial Beach General Plan and the Coastal Land Use Plan. (Ord. 94-884, 1994; Ord. 601 § 1 (part), 1983)

### **COASTAL PERMIT FINDINGS:**

- 1. The proposed development conforms to the Certified Local Coastal Plan (LCP) including Coastal Land Use Policies.**

#### **Shore Processes and Shore Protection**

The subject site is situated north of the Tijuana River Estuary and does not front along the oceanfront. The site is not subject to wave action and shore protection is not, therefore, required.

#### **Public Access**

The subject site is located within a public park where public access exists.

#### **Coastal View Access**

The skateboard park project is not a high profile building that would obstruct coastal views.

#### **Scenic Views:**

The skateboard park project is not a high profile building that would obstruct scenic views.

- 2. For all development seaward of the nearest public highway to the shoreline, the proposed development meets standards for public access and recreation of Chapter Three of the 1976 Coastal Act and regulations promulgated thereunder.**

The subject site is not located seaward of the nearest public highway to the shoreline and this finding, therefore, is not applicable.

- 3. The proposed development meets the minimum relevant criteria set forth in Title 19, Zoning.**

Refer to Site Plan Review finding No.7.

- 4. For all development involving the construction of a shoreline protective device, a mitigation fee shall be collected which shall be used for beach sand replenishment purposes. The mitigation fee shall be deposited in an interest bearing account designated by the Executive Director of the California Coastal Commission and the City Manager of Imperial Beach in lieu of providing sand to replace the sand and beach area that would be lost due to the impacts of any protective structures.**

The project does not front along the oceanfront and, therefore, does not require a shoreline protective device.

The skateboard park project is located in the PF Zone of the LCP and in the Appeal Jurisdiction of the California Coastal Commission, as indicated on the Local Coastal Program Post Certification and Appeal Jurisdiction Map, and, as such, the coastal development permit (CP 090023) is subject to appeal to/or by the California Coastal Commission.

### **DESIGN REVIEW FINDINGS:**

#### **1. The project is consistent with the City's Design Review Guidelines.**

The design of the project and the landscaping improvements are consistent with the City's Design Review Guidelines as per Design Review Compliance checklist attached to the approved DRB Resolution 2009-03 and findings contained therein. It is found that the noted exceptions do not rise to a level of significance such that the project would not be consistent with the Design Review Guidelines.

**NOW, THEREFORE, BE IT RESOLVED**, that Regular Coastal Development Permit (CP 090023), Design Review (DRC 090024), Site Plan Review (SPR 090025), and a Final Mitigated Negative Declaration (EIA 090026/SCH#2009121003) including the Mitigation Monitoring and Reporting Program (MMRP) for the construction of a 7100 square foot skate park on a city-owned 7.98-acre parcel (APN 632-400-35-00) at Sports Park, 425 Imperial Beach Boulevard in the Public Facility (PF) Zone, are hereby **approved** by the City Council of the City of Imperial Beach subject to the following:

### **CONDITIONS OF APPROVAL:**

1. The site shall be developed in accordance with the approved site plans on file in the Public Works Department, the Community Development Department, and with the conditions herein.
2. Approval of this request shall not waive compliance with any portion of the California Building Code and Municipal Code in effect at the time a building permit is issued.
3. Approval of Regular Coastal Development Permit (CP 090023), Design Review (DRC 090024), Site Plan Review (SPR 090025), and a Mitigated Negative Declaration (EIA 090026) for the construction of a 7100 square foot skate park on a 7.98-acre parcel (APN 632-400-35-00) at Sports Park, 425 Imperial Beach Boulevard in the Public Facility (PF) Zone is valid for **one year** from the date of final action, to **expire on January 20, 2011** or, if appealed to the Coastal Commission, **two years** from the date the Coastal Commission finds that there is a substantial issue regarding the coastal development permit. Conditions of approval must be satisfied, building permits issued, and substantial construction must have commenced prior to January 20, 2011, or a time extension is granted by the City Council prior to expiration.
4. The applicant or applicant's representative shall, pursuant to Section 711.4 of the California Fish and Game Code, pay to the San Diego County Clerk **\$2,010.25 plus a \$50** County documentary handling fee at the time the Notice of Determination is filed by the City, which is required to be filed with the County Clerk within five working days after project approval becomes final (Public Resources Code Section 21152).

5. **Greenhouse Gas Emissions:** Contractors are encouraged and construction specifications for the project should recommend incorporating the following CARB Early Action measures:
  - a. Procuring cement from California energy-efficient facilities that have converted to a low-carbon fuel-based production in order to reduce CO<sub>2</sub> emissions from fuel combustion, calcination, and electricity use.
  - b. Utilizing blended cement materials such as limestone, fly ash, natural pozzolan and/or slag to replace some of the clinker in the production of Portland Cement.
6. All landscaped areas shall be maintained in a healthy condition, free from weeds, trash, and debris.
7. **Hydrology and Water Quality:** The final design for and construction of the skate park shall demonstrate that runoff from the facility will be in compliance with the City's updated storm water regulations that are in effect at the time ministerial permits are issued and construction starts for the skate park project..
8. The applicant shall include a Best Management Practices (BMP) plan to prevent contamination of storm drains and/or groundwater, in compliance with the Clean Water Act, to the Building Division of the Community Development Department, prior to the issuance of building permits. This plan shall be subject to the review and approval of the Storm Water Program Manager prior to building permit issuance. The BMP include but are not limited to the following:
  - a. Containment of all construction water used in conjunction with the construction activities. Contained construction water is to be properly disposed in accordance with federal, state, and city statutes, regulations and ordinances. Call Hank Levien at (619) 628-1369 for requirements.
  - b. All recyclable construction waste must be properly recycled and not disposed in a landfill.
  - c. Water used on site must be prevented from entering the storm drain conveyance system (i.e. streets, gutters, alley, storm drain ditches and pipes).
  - d. All wastewater resulting from cleaning construction tools and equipment must be contained on site and properly disposed in accordance with federal, state, and city statutes, regulations and ordinances.
  - e. All sediment on the construction site must be contained on the site and is not permitted to enter the storm drain conveyance system.
9. The property owner must institute "Best Management Practices" to prevent contamination of storm drains and/or ground water. These practices include but are not limited to:
  - ◆ Contain all construction water used in conjunction with the construction. Contained construction water is to be properly disposed in accordance with Federal, State and City statutes, regulations and ordinances.
  - ◆ All recyclable construction waste must be properly recycled and not disposed in the landfill.
  - ◆ Water used on site must be prevented from entering the storm drain conveyance system (i.e. streets, gutters, alley, storm drain ditches, storm drain pipes).

- ◆ All wastewater resulting from cleaning construction tools and equipment must be contained on site and properly disposed in accordance with Federal, State, and City statutes, regulations, and ordinances.
  - ◆ Erosion control - All sediment on the construction site must be contained on the construction site and not permitted to enter the storm drain conveyance system.
10. Any disposal/transportation of solid waste / construction waste in roll off containers must be contracted through EDCO Disposal Corporation unless the hauling capability exists integral to the prime contractor performing the work.
  11. Prior to any work being performed in the public right-of-way, a temporary encroachment permit shall be obtained from the Building Division and appropriate fees paid.
  12. For any work to be performed in the right-of-way, submit a traffic control plan for approval by Public Works Director a minimum of 5 working days in advance of street work. Traffic control plan is to be per CALTRANS Traffic Manual.
  13. The applicant shall, during construction, store any roll-off bins on the site. If this is not possible, an Encroachment Permit shall be obtained from the Building Division prior to the issuance of a building permit, to place any roll-off bins in the public right-of-way. The Encroachment Permit will contain the following conditions:
    - A. The roll-off bin shall not contain debris past the rim, and shall be emptied regularly to prevent this.
    - B. The area around the bin shall be kept free and clear of debris.
    - C. The bin shall have reflectors for observation at night.
  14. Prior to commencement of construction, the applicant shall submit plans showing the locations, both on and off site that will be used as staging or storage areas for materials and equipment during the construction phase of the project. The staging/storage plan shall be subject to review and written approval of the Community Development Director.

**Appeal Process under the California Code of Civil Procedure (CCP):** The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

**PROTEST PROVISION:** The 90-day period in which any party may file a protest, pursuant to Government Code Section 66020, of the fees, dedications or exactions imposed on this development project begins on the date of the final decision.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its regular meeting held on the 20<sup>th</sup> day of January, 2010, by the following roll call vote:

**AYES: COUNCILMEMBERS:**  
**NOES: COUNCILMEMBERS:**  
**ABSENT: COUNCILMEMBERS:**

*James C. Janney*

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**JAMES C. JANNEY, MAYOR**

**ATTEST:**

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**JACQUELINE M. HALD, CMC**  
**CITY CLERK**

**APPROVED AS TO FORM:**

*James P. Lough*

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**JAMES P. LOUGH**  
**CITY ATTORNEY**

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Resolution No. 2010-6836 A Resolution of the City of Imperial Beach approving Regular Coastal Development Permit (CP 090023), Design Review (DRC 090024), Site Plan Review (SPR 090025), and a Mitigated Negative Declaration ((EIA 090026/SCH#2009121003) for the construction of a 7100 square foot skate park on a city-owned 7.98-acre parcel (APN 632-400-35-00) at Sports Park, 425 Imperial Beach Boulevard in the Public Facility (PF) Zone

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**CITY CLERK**

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**DATE**

# IMPERIAL BEACH SKATEPARK

ATTACHMENT 2

- GENERAL NOTES:**
1. CONTRACTOR SHALL INSTALL ALL IMPROVEMENTS IN ACCORDANCE WITH THE CITY OF IMPERIAL BEACH BUILDING CODES AND THE 2003 IBC.
  2. CONTRACTOR SHALL REVIEW THESE PLANS AND THE TECHNICAL SPECIFICATION AND REPORT ANY DISCREPANCIES TO GRINDLINE IMMEDIATELY.
  3. CONTRACTOR SHALL VISIT THE SITE TO VERIFY EXISTING CONDITIONS BEFORE SUBMITTING A CONSTRUCTION BID.
  4. IT IS THE CONTRACTOR'S RESPONSIBILITY TO LOCATE ALL UTILITIES, SEWER, GAS, AND WATER LINES BEFORE YOU DIG.
  5. WORK IN PUBLIC AREAS SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME AND MINIMUM DISRUPTION TO THE PUBLIC.
  6. IF ANY PROPOSED WORK IS TO BE COMPLETED IN A PUBLIC AREA, THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND FEES FROM THE CITY OF IMPERIAL BEACH.



- 1-SP1.0 COVER SHEET
- 2-SP1.1 PHASE LIMITS
- 3-SP1.2 SITE PLAN (PHASE 1)
- 4-SP1.3 SITE PLAN (PHASE 2)
- 5-C 1.0 GRADING PLANS NOTES
- 6-C 2.0 GRADING PLANS
- 7-SP1.4 MATERIALS KEY
- 8-SP1.5 VERTICAL CONTROLS
- 9-SP1.6 LAYOUT PLAN
- 10-SP1.7 CONCRETE JOINTS
- 11-SP1.8 SECTIONS KEY
- 12-SP2.1 SECTIONS
- 13-SP2.2 SECTIONS
- 14-SP3.1 DETAILS
- 15-SP3.2 DETAILS
- 16-LI 1.0 IRRIGATION PLAN PHASE 1
- 17-LI 5.0 IRRIGATION NOTES AND DETAILS PHASE 1
- 18-LI 1.0 IRRIGATION PLAN PHASE 2
- 19-LI 5.0 IRRIGATION PLAN NOTES AND DETAILS PHASE 2

**LOCATION:**  
425 IMPERIAL BEACH BLVD.  
IMPERIAL BEACH, CA 91932

- FOVIE ALL LABOR, MATERIALS, TRANSPORTATION, AND SERVICES NECESSARY TO FURNISH AND INSTALL ALL CONSTRUCTION ELEMENTS AS SHOWN IN THESE PLANS AND NOTES.
- THE CONTRACTOR SHALL OBTAIN, COORDINATE, AND PAY FOR ALL PERMITS, FEES, AND AGENCY INSPECTIONS AS REQUIRED.
- ALL WORK SHALL BE GUARANTEED BY THE CONTRACTOR AS TO MATERIALS AND WORKMANSHIP FOR A PERIOD OF ONE YEAR FOLLOWING THE DATE OF THE FINAL ACCEPTANCE OF THE PROJECT. THE CONTRACTOR SHALL PROVIDE A WRITTEN GUARANTEE ON HIS LETTERHEAD AT THE TIME OF FINAL INSPECTION.
- ALL DIMENSIONS ARE TAKEN FROM CURB FACE OR EDGE OF PAVING, UNLESS NOTED OTHERWISE ON PLANS. THE DIMENSIONS ARE SHOWN FOR APPROXIMATE LINE, AND ALL RADII, CURVES, AND SURFACES ARE TO HAVE EXTREMELY SMOOTH TRANSITIONS WITH ABSOLUTELY NO ABRUPT CHANGES OF BENDS.
- ALL FORMS AND ALIGNMENT OF PAVING SHALL BE REVIEWED BY AN INSPECTOR PRIOR TO POURING. NOTIFICATION WILL BE GIVEN WITH AT LEAST 48 HOURS NOTICE.
- FOR SITE GRADING, SEE RELATIVE VERTICAL CONTROLS AND SITE PLAN PROVIDED.
- THE DRAWINGS AND SPECIFICATIONS REPRESENT THE FINISHED STRUCTURE. ALL BRACING, TEMPORARY SUPPORTS, SHORING, ETC. ARE THE SOLE RESPONSIBILITY OF THE CONTRACTOR. SITE INSPECTIONS DO NOT INCLUDE THE INSPECTION OF CONSTRUCTION METHODS AND SAFETY CONDITIONS AT THE WORK SITE. THESE VISITS SHALL NOT BE CONSTRUED AS CONTINUOUS AND DETAILED INSPECTIONS.
- DESIGN MATERIALS, EQUIPMENT, AND PRODUCTS OTHER THAN THOSE DESCRIBED OR INDICATED ON THE DRAWINGS MAY BE CONSIDERED FOR USE, PROVIDED PRIOR APPROVAL IS OBTAINED FROM THE OWNER, GRINDLINE SKATEPARKS INC. AND THE APPLICABLE GOVERNING CODE AUTHORITY.
- OWNER SHALL PROVIDE INITIAL STAKING OF PARK CORNERS ONE TIME AT OWNERS EXPENSE.
- CONTRACTOR SHALL PROVIDE ANY OTHER NECESSARY STAKING.



PREPARED IN THE OFFICE OF:  
**BUCCOLA** 760.721-2000  
**ENGINEERING, inc**  
3142 Vista Way, Suite 301, Occooside, CA 92056

APPROVED CHANGES			
No.	Description	Approved By	Date

**60% REVIEW SUBMITTAL-  
NOT FOR CONSTRUCTION**

SHEET <b>1</b>	CITY OF IMPERIAL BEACH ENGINEERING DEPARTMENT	<b>19</b> SHEETS
COVER SHEET FOR:		
<b>IMPERIAL BEACH SKATE PARK</b>		
Approved:		
CITY ENGINEER		DATE
ENGINEER OF WORK: <b>EXP 9-31-10</b>	Checked by:	
	Approved Date:	
PHILIP D. BUCCOLA, R.C.E. #7732		





# IMPERIAL BEACH SKATEBOARD PARK

**FINAL**

January 20, 2010

## MITIGATED NEGATIVE DECLARATION





**COMMUNITY DEVELOPMENT DEPARTMENT**  
825 IMPERIAL BEACH BOULEVARD • IMPERIAL BEACH, CALIFORNIA 91932

**MITIGATED NEGATIVE DECLARATION**

**JANUARY 20, 2010**

**A. PROJECT NAME/PROJECT DESCRIPTION/APPLICANT/PROJECT LOCATION:**

**Imperial Beach Skateboard Park:** This is a City-initiated application for Coastal Development Permit (CP 090023), Design Review (DRC 090024), Site Plan Review (SPR 090025), and Environmental Assessment (EIA 090026) for the installation of a 7100 square foot skateboard park on a city-owned 7.98 acre parcel (APN 632-400-35-00) at 425 Imperial Beach Blvd (Sports Park) in the Public Facility (PF) Zone. This facility would be located south of the Sports Park Recreation Center, on the east half of the basketball court, and west of Saint Mary's Episcopal Church.

**COASTAL PERMIT JURISDICTION:** The project is located in the Appeal Jurisdiction of the California Coastal Commission as indicated on the Local Coastal Program Post Certification and Appeal Jurisdiction Map and, as such, the coastal development permit (CP 090023) is subject to appeal to the California Coastal Commission under Section 30603(a) of the California Public Resources Code.

**B. ENVIRONMENTAL FINDINGS:**

**Find:** that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis; that the decision-making body has, pursuant to CEQA Guidelines Section 15074(b), reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; that revisions in the project plans or proposals made by or agreed to by the project applicant, pursuant to CEQA Guidelines Section 15070(b)(1), would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and that, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) there is no substantial evidence that the project as proposed, as conditioned, or as revised, will have a significant effect on the environment.

This Mitigated Negative Declaration (MND) is comprised of this document along with the Environmental Initial Study, which, pursuant to CEQA Guidelines Section 15063(f) may consist of the Environmental Information Form (Appendix H) and the Environmental Checklist Form (Appendix G). This MND considered the potential cumulative impacts of the project, and any other past, present and reasonably foreseeable future projects.

This document is considered a draft until it is adopted by the appropriate City of Imperial Beach decision-making body as lead agency.

**C. MITIGATION MEASURES:**

**Greenhouse Gas Emissions:**

1. If feasible, cement for the project is encouraged to be used from the following additional early action measures recommended by CARB for cement plants:

*Cement (A): Energy Efficiency of California Cement Facilities:* This measure is recommended as an additional early action. The strategy involves reducing CO2 emissions from fuel combustion, calcination, and electricity use by converting to a low-carbon fuel-based production, decreasing fuel consumption, and improving energy efficiency practices and technologies in cement production.

*Cement (B): Blended Cements:* This measure is recommended as an additional early action. The strategy to reduce CO2 emissions involves the addition of blending materials such as limestone, fly ash, natural pozzolan and/or slag to replace some of the clinker in the production of Portland Cement. Currently, ASTM cement specifications allow for replacement of up to 5% clinker with limestone. Most manufacturers could in fact replace up to 4% with limestone. Caltrans allows for 2.5% average limestone replacement until testing of the long term performance of the concrete is complete. Caltrans currently has over \$1 million in task orders and is devoting considerable staff resources to the evaluation of limestone blending in cement. Caltrans also currently has standards for using flyash and slag in concrete. Other blending practices will be explored.

**Hydrology and Water Quality:**

2. The final design for and the construction of the skate park will need to demonstrate that runoff from the facility will be in compliance with the City's updated storm water regulations that would be in effect at the time ministerial permits are issued and construction starts for the project..

**D. ADOPTION:**

This Mitigated Negative Declaration (SCH#2009121003) was adopted and the aforementioned CEQA findings were made by the Imperial Beach City Council on January 20, 2010.

---

James Nakagawa, AICP  
Imperial Beach City Planner

**Attachments:**

1. Environmental Information Form (Appendix H)
2. Environmental Initial Study/Checklist Form (Appendix G)
3. Patronage, Noise, and Parking Study of Oceanside's Martin Luther King Skate Park and Melba Moore Skate Park and of Imperial Beach's Sports Park October 15, 2009
4. Sports Park parking survey November 25, 2009
5. Comments and responses to comments on the draft MND
6. Mitigation and Monitoring Reporting Program



# ENVIRONMENTAL INFORMATION FORM (CEQA Appendix H) (To be completed by Applicant)

If the project cannot initially be determined to be exempted from CEQA, then a \$1,000 deposit may be required to analyze the environmental information. If it is determined that a Negative Declaration needs to be prepared, an additional \$2,000 deposit will be required, and if an Environmental Impact Report (EIR) needs to be prepared, the applicant will be required to submit a draft EIR, prepared by a qualified environmental consultant, and an additional \$7,000 deposit for its review.

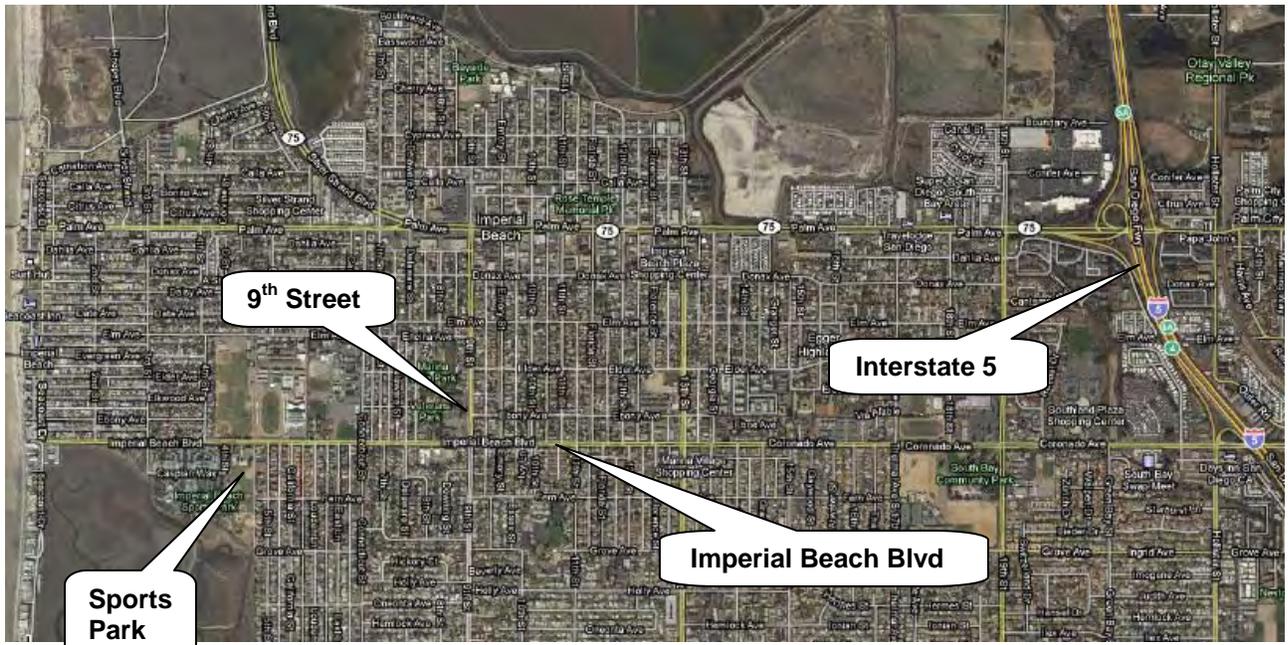
Project Address: 425 Imperial Beach Blvd	Assessor's Parcel #: 632-400-35-00
Applicant: Public Works Department	Owner: City of Imperial Beach
Related Permit/Case: MF 1019/CP 090023/DRC 090024/SPR 090025/EIA 090026	Zoning/General Plan Designation: PF (Public Facility)
Project Description: 7100 sq ft public skate park in possible 2 phases <span style="float: right;">Plans attached: <input checked="" type="checkbox"/></span>	
Proposed use: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Institutional (school, church, etc.)	
# off-street parking spaces proposed <input type="checkbox"/> # enclosed _____ <input checked="" type="checkbox"/> # open 91 existing	
# dwelling units: proposed NA	Parcel size: 7.98 acres
Proposed Building Height: NA	# Stories: NA
Total Floor Area: NA	Floor Area Ratio (FAR): NA
Lot Coverage: NA	Average Daily Auto Trips:
# Employees: facility not to be staffed	Per Shift: NA
Weekday hrs of operation: dawn to dusk	Weekend hrs of operation: dawn to dusk
Clients/Customers per day:	Market/service area: Imperial Beach
Environmental Setting/on-site: Describe the project site as it exists before the project, including existing uses and structures, building heights, topography, vegetation, cultural, historical or scenic aspects. Attach photographs. <u>Basketball court and turf area on the east side of the existing city-owned Sports Park facility.</u>	Environmental Setting/off-site: Describe the surrounding properties, including land uses and structures, building heights, vegetation, cultural, historical or scenic aspects. Attach photographs of the vicinity. <u>North: Recreation Center for Sports Park</u> <u>South: Ball fields</u> <u>East: city parking lot and alley, church, residences</u> <u>West: city picnic facilities, playground equipment</u>

**CHECKLIST:**

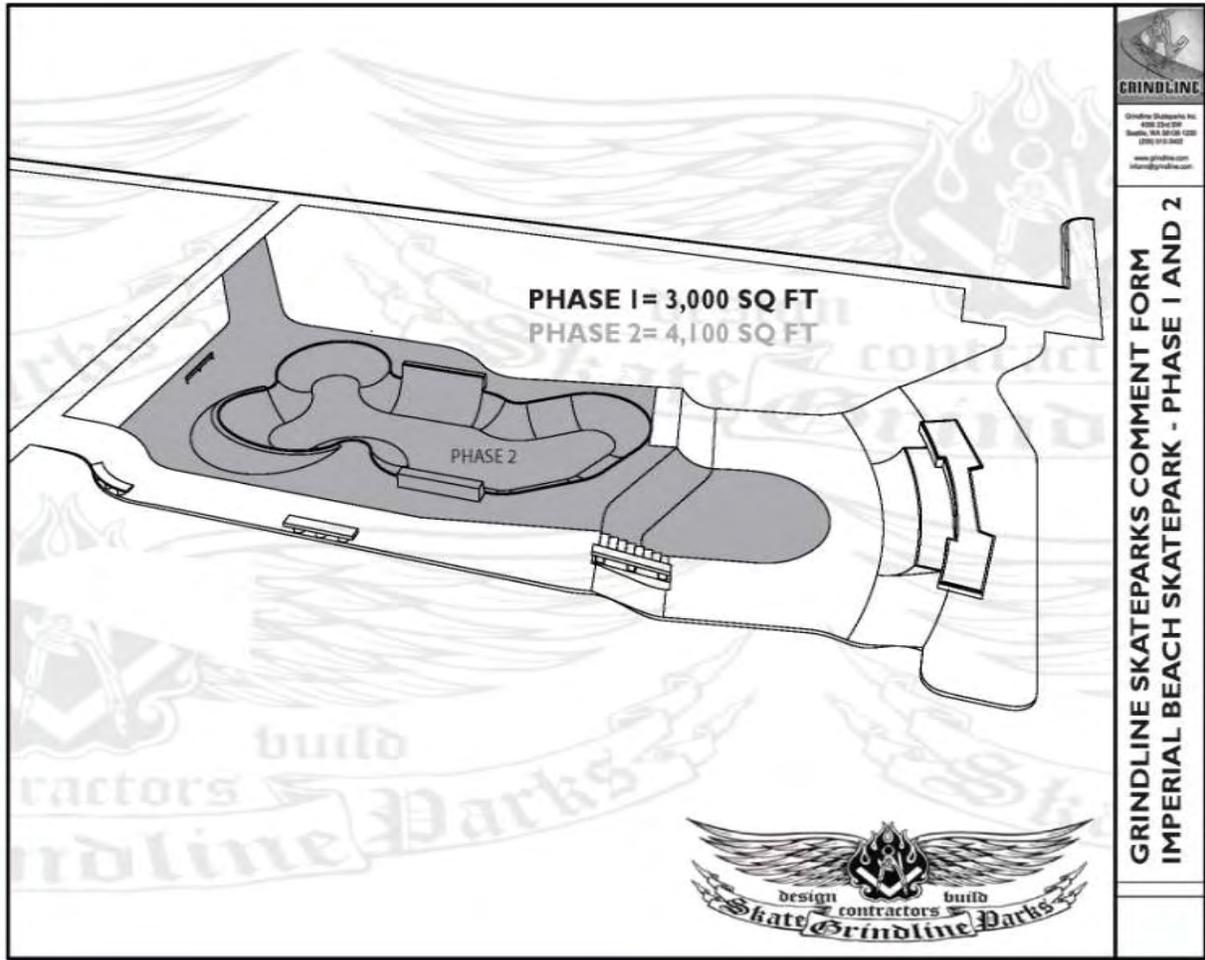
Are the following items applicable to the project or its effects? Discuss below all items checked yes (attach additional sheets as necessary).	Yes	No
Change in existing features of any bays, tidelands, beaches, or hills, or substantial alterations of ground contours.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Change in scenic views or vistas from existing residential areas or public lands or roads.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Change in pattern, scale or character of general area of project.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Significant amounts of solid waste or litter.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Change in dust, ash, smoke, fumes, odors or greenhouse gases in vicinity.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Change in ocean, bay, lake, stream or ground water quality or quantity, or alteration of existing drainage patterns.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Substantial change in existing noise or vibration levels in the vicinity.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Site on filled land or on slope of 10 percent or more.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Use of disposal of potentially hazardous materials, such as toxic substances, flammables or explosives.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Substantial change in demand for municipal services (police, fire, water, sewage, etc).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Substantially increase fossil fuel consumption (electricity, oil, natural gas, etc).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Relationship to a larger project or series of projects.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Significant amounts of impervious surfaces.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Significant amounts of pollutant discharges.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Change in any on-site or off-site environmentally sensitive area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**DISCUSSION OF POTENTIAL IMPACTS:**

There is estimated to be grading in the amount of 25 cubic yards of cut and 493 cubic yards of fill with the importation of 468 cubic yards of fill materials. The project will consist of 7100 square feet of hard surface for the skate park that will occupy and remove about 2500 square feet of an existing basketball court.









phase 1



**CEQA APPENDIX G****Environmental Initial Study/Environmental Checklist Form**

NOTE: The following is a sample form and may be tailored to satisfy individual agencies' needs and project circumstances. It may be used to meet the requirements for an initial study when the criteria set forth in the CEQA Guidelines have been met. Substantial evidence of potential impacts that are not listed on this form must also be considered. The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

1.	Project title: <u>Imperial Beach Skateboard Park at Sports Park</u>		
2.	Lead agency name and address: <u>City of Imperial Beach, 825 Imperial Beach Blvd, Imperial Beach, CA 91932</u>		
3.	Contact person and phone number: <u>Jim Nakagawa 619-628-1355 and Vicki Madrid 619-424-2214</u>		
4.	Project location: <u>Sports Park, 425 Imperial Beach Blvd, Imperial Beach, CA 91932</u>		
5.	Project sponsor's name and address: <u>Hank Levien, Public Works Director, City of Imperial Beach, 495 10<sup>th</sup> Street, Imperial Beach, CA 91932</u>		
6.	General plan designation: <u>Public Facility</u>	7.	Zoning: <u>PF</u>
8.	Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.) <u>7100 square foot public skate park proposed (in possible 2 phases) south of the Recreation Center, east of the picnic tables, and north of the ball fields at Sports Park, 495 Imperial Beach Blvd. One-half of an existing basketball court and 3 small trees to the south will be removed.</u>		
9.	Surrounding land uses and setting: Briefly describe the project's surroundings: <u>North: Recreation Center for Sports Park</u> <u>South: Ball fields</u> <u>East: city parking lot and alley, church, residences</u> <u>West: city picnic facilities, playground equipment</u>		
10.	Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) <u>none</u>		

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Agriculture and Forest Resources	<input type="checkbox"/>	Air Quality
<input type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Geology /Soils
<input type="checkbox"/>	Greenhouse Gas Emissions	<input type="checkbox"/>	Hazards & Hazardous Materials	<input type="checkbox"/>	Hydrology / Water Quality
<input type="checkbox"/>	Land Use / Planning	<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Noise
<input type="checkbox"/>	Population / Housing	<input type="checkbox"/>	Public Services	<input type="checkbox"/>	Recreation
<input type="checkbox"/>	Transportation/Traffic	<input type="checkbox"/>	Utilities / Service Systems	<input type="checkbox"/>	Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

<input type="checkbox"/>	I find that the proposed project COULD NOT have a significant effect on the environment, and a NOTICE OF EXEMPTION will be prepared.
<input type="checkbox"/>	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
<input checked="" type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
<input type="checkbox"/>	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
<input type="checkbox"/>	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required but it must analyze only the effects that remain to be addressed.
<input type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

 Signature James Nakagawa, AICP, City Planner	<u>12-1-09</u> Date
--	------------------------

## EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they

address site-specific conditions for the project.

- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
  - a) the significance criteria or threshold, if any, used to evaluate each question; and
  - b) the mitigation measure identified, if any, to reduce the impact to less than significance

**CHECKLIST QUESTIONS:**

Issues:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
II. AGRICULTURE AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and the forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined in Public Resources Code section 4526)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
approved local, regional, or state habitat conservation plan?				
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Chapter 18 of the Uniform Building Code (1997), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>VII. GREENHOUSE GAS EMISSIONS --</b>				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>VIII. HAZARDS AND HAZARDOUS MATERIALS --</b>				
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>IX. HYDROLOGY AND WATER QUALITY --</b> Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site during or following construction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the surface runoff flow rates or volumes in a manner which would result in flooding on- or off-site during or following construction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Result in increased impervious surfaces and associated increase runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Tributary to an already impaired water body, as listed on the Clean Water Act	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

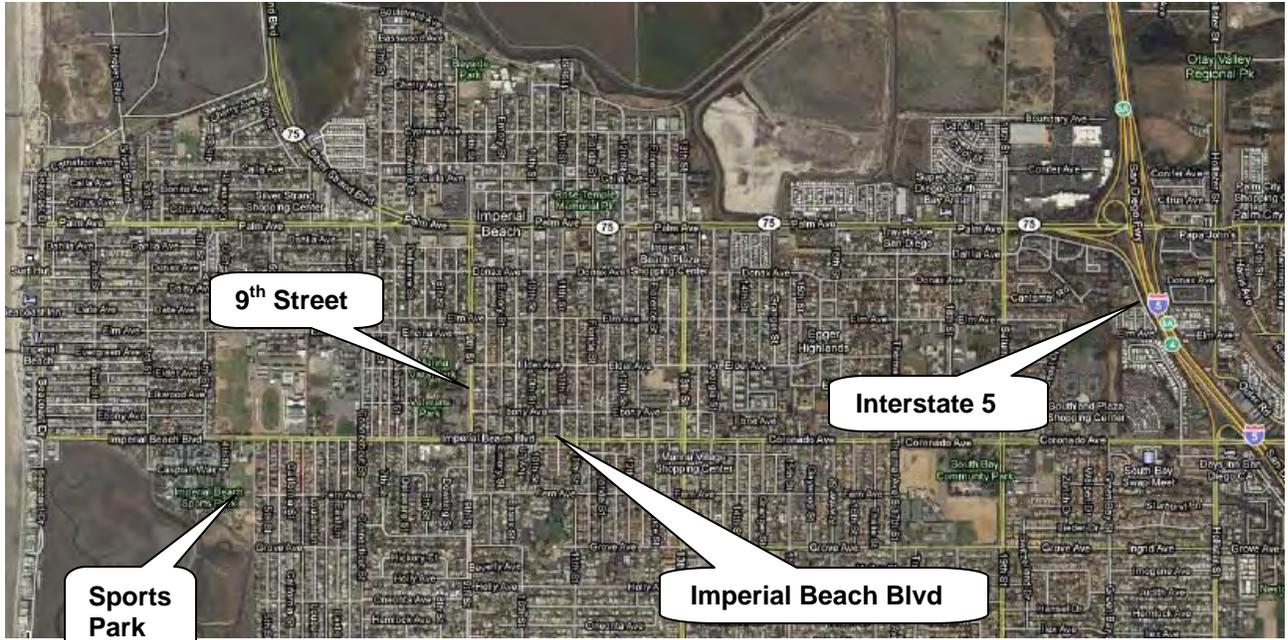
	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
Section 303(d) list? If so, could the project result in an increase in any pollutant for which the water body is already impaired?				
h) Result in discharges into surface waters during or following construction, or in significant alternation of surface water quality including, but not limited to temperature, dissolved oxygen, turbidity or typical storm water pollutants (e.g., heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j) Have a potentially significant environmental impact on surface water quality, to either marine, fresh, or wetland waters? Can the project impact aquatic, wetland, or riparian habitat?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k) Is project tributary to other environmentally sensitive areas? If so, can it exacerbate already existing sensitive conditions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
l) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
m) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
n) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
X. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Conflict with any applicable regional water quality plan or Standard Urban Storm Water Mitigation Plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
XI. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XII. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
excessive noise levels?				
XIII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XIV. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XV. RECREATION --				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
environment?				
XVI. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVII. UTILITIES AND SERVICE SYSTEMS - - Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



**DISCUSSION:**

- I. **AESTHETICS** -- Would the project:
  - a) Have a substantial adverse effect on a scenic vista?

**Less Than Significant Impact.** Some residents to the east might view the replacement of some of the park turf with hardscape as adverse. However, the larger trees on the east side will remain to function as a buffer between the skate park and the church parking lot and homes. Part of the basketball court, an existing hardscape, will be demolished as a part of the skate park. The impact on a scenic vista would be less than significant.

- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

**Less Than Significant Impact.** Three small trees to the south of the project will be removed as their roots may threaten the integrity of the skate park. Their removal would be less than significant.

- c) Substantially degrade the existing visual character or quality of the site and its surroundings?

**Less Than Significant Impact.** The project is yet another park facility in an active use public park and would be compatible with other similar facilities. The impact to visual quality would be less than significant.

- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

**Less Than Significant Impact.** The 4100 square feet of additional hardscape would reflect a little more light than the existing turf. However, it would not produce the light and glare that steel and glass high rise structures would produce that typically give rise to glare issues. Glare impacts from this project would be less than significant.

#### IV. BIOLOGICAL RESOURCES -- Would the project:

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

**Less Than Significant Impact.** The City normally requires the provision of trees for a number of projects within the City. However, on occasion, the City has removed trees if their existence appeared to threaten public safety (e.g. tree roots that break up sidewalks or branches that trespass on private property) or had an adverse design impact. The impact of removing the three small trees that appear to compromise the integrity of the concrete would be less than significant.

#### VII. GREENHOUSE GAS EMISSIONS -- Would the project:

- a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

**Less Than Significant Impact.** It is the view of the State Legislature (as expressed in its adoption of Assembly Bill (AB) 32, *The California Climate Solutions Act of 2006*), that global warming poses significant adverse effects to the environment of the state of California and the world. In addition, the global scientific community has expressed very high confidence (i.e., at least 90 percent) that global warming is anthropogenic, i.e., caused by humans, and that global warming will lead to adverse climate change effects around the globe (IPCC 2007). Therefore, the potential global warming impacts of the Skate Park project are evaluated below.

#### Causes of Climate Change

Atmospheric greenhouse gases (GHGs) and clouds within the earth's atmosphere influence the earth's temperature by absorbing most of the infrared radiation rising from the earth's sunwarmed surface that would otherwise escape into space. This process is commonly known as the Greenhouse Effect. GHGs and clouds, in turn, radiate some heat back to the earth's surface and some out to space. The resulting balance between incoming solar radiation and outgoing radiation from both the earth's surface and atmosphere keeps the planet habitable.

However, anthropogenic (i.e., caused by humans) emissions of GHGs into the atmosphere enhance the Greenhouse Effect by absorbing the radiation from other atmospheric GHGs that would otherwise escape to space, thereby trapping more radiation in the atmosphere and causing temperature to increase. The human-produced GHGs responsible for increasing the Greenhouse Effect and their relative contribution to global warming are carbon dioxide (CO<sub>2</sub>) (53 percent); methane (CH<sub>4</sub>) (17 percent); near-surface ozone O<sub>3</sub> (13 percent); nitrous oxide (N<sub>2</sub>O) (12 percent); and chlorofluorocarbons (CFCs) (5 percent). The most common GHG is CO<sub>2</sub>, which constitutes approximately 84 percent of all GHG emissions in California. Worldwide, the state of California ranks as the 12th to 16th largest emitter of CO<sub>2</sub> (the most prevalent GHG) and is responsible for approximately 2 percent of the world's CO<sub>2</sub> emissions (CEC 2006).

The increasing emissions of these GHGs – primarily associated with the burning of fossil fuels (during transport, electricity generation, industry, manufacturing, etc.) and deforestation, as well as agricultural activity and solid waste – have led to a trend of unnatural warming of the earth's temperature, which is causing changes in the earth's climate. This increasing temperature phenomenon is known as global warming and the climatic effect is known as climate change or global climate change.

### **Assembly Bill 32**

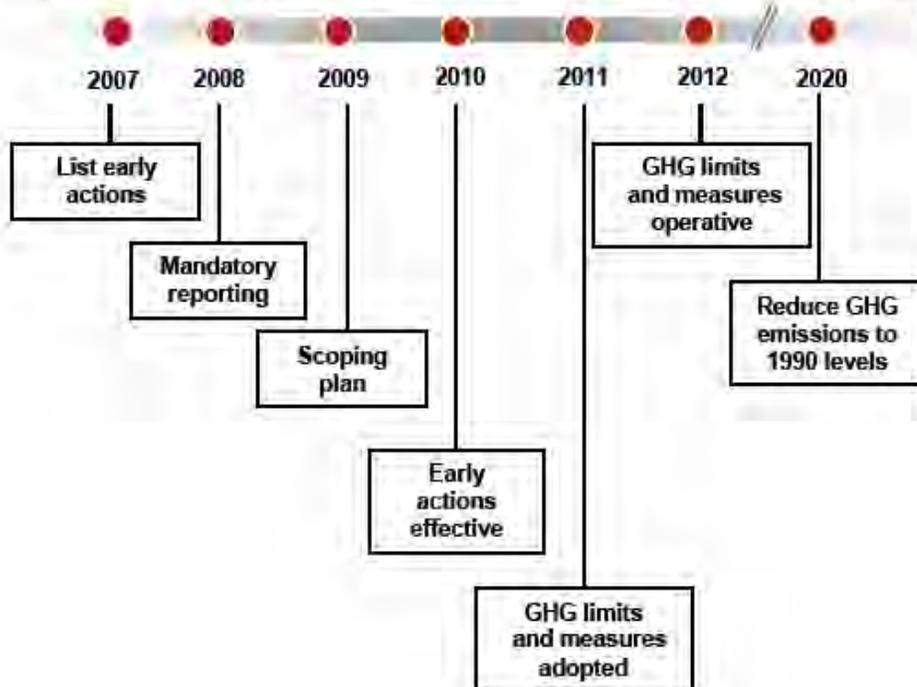
The California Legislature has adopted the public policy position that global warming is, "a serious threat to the economic well-being, public health, natural resources, and the environment of California" (Health and Safety Code § 38501). Further, the State Legislature has determined that "the potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious disease, asthma, and other human health-related problems," and that "[g]lobal warming will have detrimental effects on some of California's largest industries, including agriculture, wine, tourism, skiing, recreational and commercial fishing, and forestry ...[and] will also increase the strain on electricity supplies necessary to meet the demand for summer air conditioning in the hottest parts of the State" (Health and Safety Code § 38501). These public policy statements became law with the enactment of AB 32, the "California Climate Solutions Act" of 2006, signed into law in September 2006 by Governor Arnold Schwarzenegger. In general, AB 32 directs the California Air Resources Board (CARB) to do the following:

- On or before June 30, 2007, publicly make available a list of discrete early action GHG emission reduction measures that can be implemented prior to the adoption of the statewide GHG limit and the measures required to achieve compliance with the statewide limit;
- By January 1, 2008, determine the statewide levels of GHG emissions in 1990, and adopt a statewide GHG emissions limit that is equivalent to the 1990 level (an approximately 25 percent reduction in existing statewide GHG emissions);
- On or before January 1, 2010, adopt regulations to implement the early action GHG emission reduction measures;

- On or before January 1, 2011, adopt quantifiable, verifiable and enforceable emission reduction measures by regulation that will achieve the statewide GHG emissions limit by 2020, to become operative on January 1, 2012 at the latest. The emission reduction measures may include direct measures, alternative compliance mechanisms, and potential monetary and nonmonetary incentives that reduce GHG emissions from any sources or categories of sources that CARB finds necessary to achieve the statewide GHG emissions limit; and
- CARB shall monitor compliance with and enforce any emission reduction measure adopted pursuant to AB 32.

AB 32 takes into account the relative contribution of each source or source category to protect adverse impacts on small businesses and others by requiring CARB to recommend a *de minimis* threshold of GHG emissions below which emissions reduction requirements would not apply. AB 32 also allows the Governor to adjust the deadlines mentioned above for individual regulations or the entire state to the earliest feasible date in the event of extraordinary circumstances, catastrophic events, or threat of significant economic harm.

Figure 1. Comprehensive Multiyear Program Established by AB 32



### Executive Order #S-3-05

Executive Order #S-3-05, signed by Governor Arnold Schwarzenegger on June 1, 2005, calls for a reduction in GHG emissions to 1990 levels by 2020 and for an 80 percent reduction in GHG emissions by 2050. Executive Order #S-3-05 also calls for the California Environmental Protection Agency (CalEPA) to prepare biennial science reports on the potential impact of continued global warming on certain sectors of the California economy. The first of these reports, "Climate Action Team Report to Governor Schwarzenegger and the Legislature" (Climate Change report), was published in March 2006 (CalEPA 2006).

The Climate Change report uses a range of emissions scenarios developed by the Intergovernmental Panel on Climate Change (IPCC) to project a series of potential warming ranges (i.e., temperature increases) that may occur in California during the 21st century: lower warming range (3.0-5.5° F); medium warming range (5.5-8.0° F); and higher warming range (8.0- 10.5° F). The Climate Change report then presents a discussion of the effects of future climate change in California for topics such as public health, water resources, agriculture, coastal sea level, forests and landscapes, and electricity. The discussion on coastal sea level follows:

California's coastal observations and global model projections indicate that California's open coast and estuaries will experience increasing sea levels during the next century. These changes could amplify the sea level rise which has historically affected much of the coast of California, including the Southern California coast, the Central California open coast, and the San Francisco Bay and upper estuary. These trends, quantified from a small set of long-duration California tide gages, show rises of about 2 mm/year. They are very similar to trends estimated for global sea level.

In addition to long-term trends, sea levels along the California coast undergo shorter period variability above or below predicted tide levels. Highest sea levels have usually occurred when winter storms and Pacific climate disturbances such as El Niño have coincided with high astronomical tides. So far, there is little evidence that the rate of global sea level rise has accelerated (the rate of rise at California tide gages has actually flattened during the last several years), but climate models suggest strongly that this may change.

Global sea level rise is projected to range from 4 to 33 inches during the 2000 to 2100 period. This compares to a rate of approximately 7.6 inches (19 cm) per century observed at San Francisco and San Diego during the last 100 years. Superimposed on these rising sea [sic] levels will be astronomically driven tides, and fluctuations from weather, El Niño and other influences, so that, the occurrence of extreme events will increase as sea level rises.

The frequency that sea level exceeds a stationary threshold, as projected over future decades for locations such as the San Francisco tide gage, increases markedly as the mean sea level increases. Thus, historical coastal structure design criteria may be exceeded, the duration of events will increase, and these events will become increasingly frequent as sea level rise continues. On the open coast, impacts during these events will continue to be exacerbated by high surf from wind, waves, and, in the Sacramento/San Joaquin Delta of the San Francisco Bay estuary, by floods that may further jeopardize levees and other structures.

### **CARB Early Action Items**

At a meeting in Los Angeles on June 21, 2007, CARB approved a list of measures to reduce GHGs as required by AB 32. Three new GHG-only regulations to meet the

narrow legal definition of “discrete early action greenhouse gas reduction measures” in Section 38560.5 of the Health and Safety Code were adopted. These three measures consist of (1) the Governor’s Low Carbon Fuel Standard, (2) reduction of refrigerant losses from motor vehicle air conditioning maintenance, and (3) increased methane capture from landfills. These actions are estimated to reduce GHG emissions between 13 and 26 million metric tons of CO<sub>2</sub> equivalent (MMTCO<sub>2</sub>E) annually by 2020 relative to projected levels. CARB is in the process of developing regulatory proposals to implement at least 9 of 44 early action measures that would be made enforceable January 1, 2010.

CARB adopted the Climate Change Scoping Plan on December 12, 2008 that included early action measures that are to be enforceable by January of 2012. The Plan mentions that:

California’s Industrial sector includes refineries, cement plants, oil and gas production, food processors, and other large industrial sources. This sector contributes almost 20 percent of California’s greenhouse gas emissions, but the sector’s emissions are not projected to grow significantly in the future.

Among the additional early action measures recommended by CARB for cement plants include the following:

*Cement (A): Energy Efficiency of California Cement Facilities:* This measure is recommended as an additional early action. The strategy involves reducing CO<sub>2</sub> emissions from fuel combustion, calcination, and electricity use by converting to a low-carbon fuel-based production, decreasing fuel consumption, and improving energy efficiency practices and technologies in cement production.

*Cement (B): Blended Cements:* This measure is recommended as an additional early action. The strategy to reduce CO<sub>2</sub> emissions involves the addition of blending materials such as limestone, fly ash, natural pozzolan and/or slag to replace some of the clinker in the production of Portland Cement. Currently, ASTM cement specifications allow for replacement of up to 5% clinker with limestone. Most manufacturers could in fact replace up to 4% with limestone. Caltrans allows for 2.5% average limestone replacement until testing of the long term performance of the concrete is complete. Caltrans currently has over \$1 million in task orders and is devoting considerable staff resources to the evaluation of limestone blending in cement. Caltrans also currently has standards for using flyash and slag in concrete. Other blending practices will be explored.

If feasible, the project will incorporate these measures as a part of the specifications for the construction of the project. The designer and contractor for the Skate Park project cite a history of incorporating green construction in its skate parks.



**Green Construction**

Grindline skateparks is committed to designing and building environmentally friendly skateparks. There are several measures and techniques that we use while working with sustainable design professionals that are standards within the green building industry and are used in attaining LEED certification in development projects.

These include but are not limited to:

- Treating storm water runoff.
- Incorporating 'fly ash' in the concrete mix.
- Balanced cut and fill to reduce off-site hauling.
- Strict requirements for erosion and dust control.
- Use of native vegetation and preservation of existing trees.
  - Incorporating reused and recycled materials, jersey barriers, precast concrete curbs, steel, granite, etc.



Grindline Skateparks Inc.  
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### Impact Significance Criteria

The proposed project would have a significant adverse effect on air quality, if it would:

- Involve design or operational factors that would emit substantial amounts of GHGs.
- Result in increased exposure to an environmental hazard related to potential climate changes (e.g., coastal sea level rise and related hazards).

### Analysis of Project Impacts

#### Emissions of GHGs

The operation of construction equipment and vehicles would emit GHGs due to combustion of fossil fuels, mainly CO<sub>2</sub>, N<sub>2</sub>O, and CH<sub>4</sub>. The principal GHG that is emitted from construction sources is CO<sub>2</sub>; amounts of N<sub>2</sub>O and CH<sub>4</sub> emitted from construction operations are much lower. The principal post-construction production of GHGs would include vehicular emissions, electrical production emissions, and natural gas consumption emissions.

Because of uncertainties inherent in climate change scenarios, baseline data for the quantitative assessment of GHG emissions for relatively small-scale projects like the Skate Park project are not available. The traffic and parking impacts observed at other skate parks indicate that the impacts would not be significant and, therefore, any GHG emissions would not be significant.

In sum, the proposed project would not significantly increase GHG emissions relative to existing conditions which would not be in conflict with the state's goal to reduce emissions under AB 32. The proposed Skate Park project would encourage skate

boarding as a safer, eco-friendly, alternative mode of transportation that would contribute to a reduction, directly or indirectly, however minimally, in emissions of GHGs.

In considering contributions to climate change and GHG emissions, the proposed Skate Park project is very minor in scale and size. Predicted climate change attributable to GHG emissions is the result of many decades of production of GHG globally. In that context, the quantities that are attributable to direct and indirect effects of the proposed project would not result in a substantial net increase in GHGs.

### **Coastal Sea Level Rise**

With the City's low-lying location, the Skate Park project, as would virtually all public and private improvements in the City, would be vulnerable to significant sea level rise. Specific effects are difficult to gage, however, in view of the high degree of variation involved in sea level rise scenarios. The 2006 Climate Scenarios report, for instance, forecasts a range from 4 to 33 inches between 2000 and 2100. In 2001, an IPCC report forecast a similar range from 9 to 88 centimeters (3.5 inches to 34.6 inches) between 1990 and 2100.

Nonetheless, the uncertainty in sea level rise predictions makes it difficult to predict with any accuracy what increased level of protection, if any, would be needed. Since sea level rise would affect not only the entire length of the coastline, but land and improvements inland, a more comprehensive analysis and program for shore protection to mitigate for the effects of sea level rise would be warranted. However, such an extensive study would be beyond the feasibility and scope of the proposed relatively small scale project.

Because of the uncertainty regarding predicted sea level rise and the lack of an established program for shore protection that would be needed for future conditions, any conclusion about the significance of exposure to an environmental hazard related to potential climate changes (e.g. coastal sea level rise and related hazards) would be speculative. Therefore, in accordance with CEQA Guidelines Section 15145, the discussion is ended with no conclusion as to the significance of the project's impact.

### **Mitigation Measures**

Because of the relatively small scale of the proposed project and the design and operational features incorporated into the project to directly or indirectly reduce GHG emissions, no mitigation for GHG emissions is required.

Because of the uncertainty regarding impacts related to potential climate change such as coastal sea level rise and related hazards, no mitigation for potential sea level rise effects is recommended."

- b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?

**Less Than Significant Impact.** CARB recommended additional Early Action items that could be incorporated into the construction of the project, even though they would not be required:

*Cement (A): Energy Efficiency of California Cement Facilities:* This measure is recommended as an additional early action. The strategy involves reducing CO2

emissions from fuel combustion, calcination, and electricity use by converting to a low-carbon fuel-based production, decreasing fuel consumption, and improving energy efficiency practices and technologies in cement production.

*Cement (B): Blended Cements:* This measure is recommended as an additional early action. The strategy to reduce CO<sub>2</sub> emissions involves the addition of blending materials such as limestone, fly ash, natural pozzolan and/or slag to replace some of the clinker in the production of Portland Cement. Currently, ASTM cement specifications allow for replacement of up to 5% clinker with limestone. Most manufacturers could in fact replace up to 4% with limestone. Caltrans allows for 2.5% average limestone replacement until testing of the long term performance of the concrete is complete. Caltrans currently has over \$1 million in task orders and is devoting considerable staff resources to the evaluation of limestone blending in cement. Caltrans also currently has standards for using flyash and slag in concrete. Other blending practices will be explored.

Since the City's studies indicate that many of the users of the skate park would visit the facility by using skateboards, this would reduce the vehicle miles travel (VMT) that contributes to GHG emissions.

#### **IX. HYDROLOGY AND WATER QUALITY -- Would the project:**

- a) Violate any water quality standards or waste discharge requirements?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.

- d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the surface runoff flow rates or volumes in a manner which would result in flooding on- or off-site during or following construction?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.

- e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.

- f) Result in increased impervious surfaces and associated increase runoff?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.

- g) Tributary to an already impaired water body, as listed on the Clean Water Act Section 303(d) list? If so, could the project result in an increase in any pollutant for which the water body is already impaired?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.

- h) Result in discharges into surface waters during or following construction, or in significant alternation of surface water quality including, but not limited to temperature, dissolved oxygen, turbidity or typical storm water pollutants (e.g., heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.

- i) Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.

- j) Have a potentially significant environmental impact on surface water quality, to either marine, fresh, or wetland waters? Can the project impact aquatic, wetland, or riparian habitat?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system (which discharges to the Tijuana River Estuary) and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.

- o) Inundation by seiche, tsunami, or mudflow?

**Less Than Significant Impact.** The project and the City would be subject to inundation in the event of a tsunami. An evacuation plan has been developed for such an event.

**X. LAND USE AND PLANNING - Would the project:**

- d) Conflict with any applicable regional water quality plan or Standard Urban Storm Water Mitigation Plan (SUSMP)?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system (which discharges to the Tijuana River Estuary) and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.

**XII. NOISE -- Would the project result in:**

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

**Less Than Significant Impact.** The City has a noise ordinance (IBMC Chapter 9.32) that can be invoked to deal with noise problems. Construction noise that exceed 75 db between 10pm and 7am would be a violation. The proposed skate park is not to be lit and, therefore, night time use is not anticipated. Noise studies were conducted at the Imperial Beach Sports Park where the skate park would be located and at two skate parks in Oceanside (studies attached). Much of the existing ambient noise levels at Sports Park were due to softball games, loud talking, and Navy helicopter noise. Noise readings taken at the Oceanside skate parks did not indicate excessive noise levels attributable to skateboarding. The skate park project, therefore, would not result in excessive noise levels.

- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

**Less Than Significant Impact.** The City has a noise ordinance (IBMC Chapter 9.32) that can be invoked to deal with noise problems. Construction noise that exceed 75 db between 10pm and 7am would be a violation. The proposed skate park is not to be lit and, therefore, night time use is not anticipated. Noise studies were conducted at the Imperial Beach Sports Park where the skate park would be located and at two skate parks in Oceanside (studies attached). Much of the existing ambient noise levels at Sports Park were due to softball games, loud talking, and Navy helicopter noise. Noise readings taken at the Oceanside skate parks did not indicate excessive noise levels attributable to skateboarding. The skate park project, therefore, would not result in excessive noise levels.

**XV. RECREATION --**

- a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

**Less Than Significant Impact.** The project is a new facility that would actually remove half of an existing basketball court. Use of the restrooms in the Recreation Center is anticipated but would not be to a point where deterioration would occur.

- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

**Less Than Significant Impact.** The proposed skate park is a small facility that would not require the expansion of additional recreational facilities.

**XVI. TRANSPORTATION/TRAFFIC -- Would the project:**

- f) Result in inadequate parking capacity?

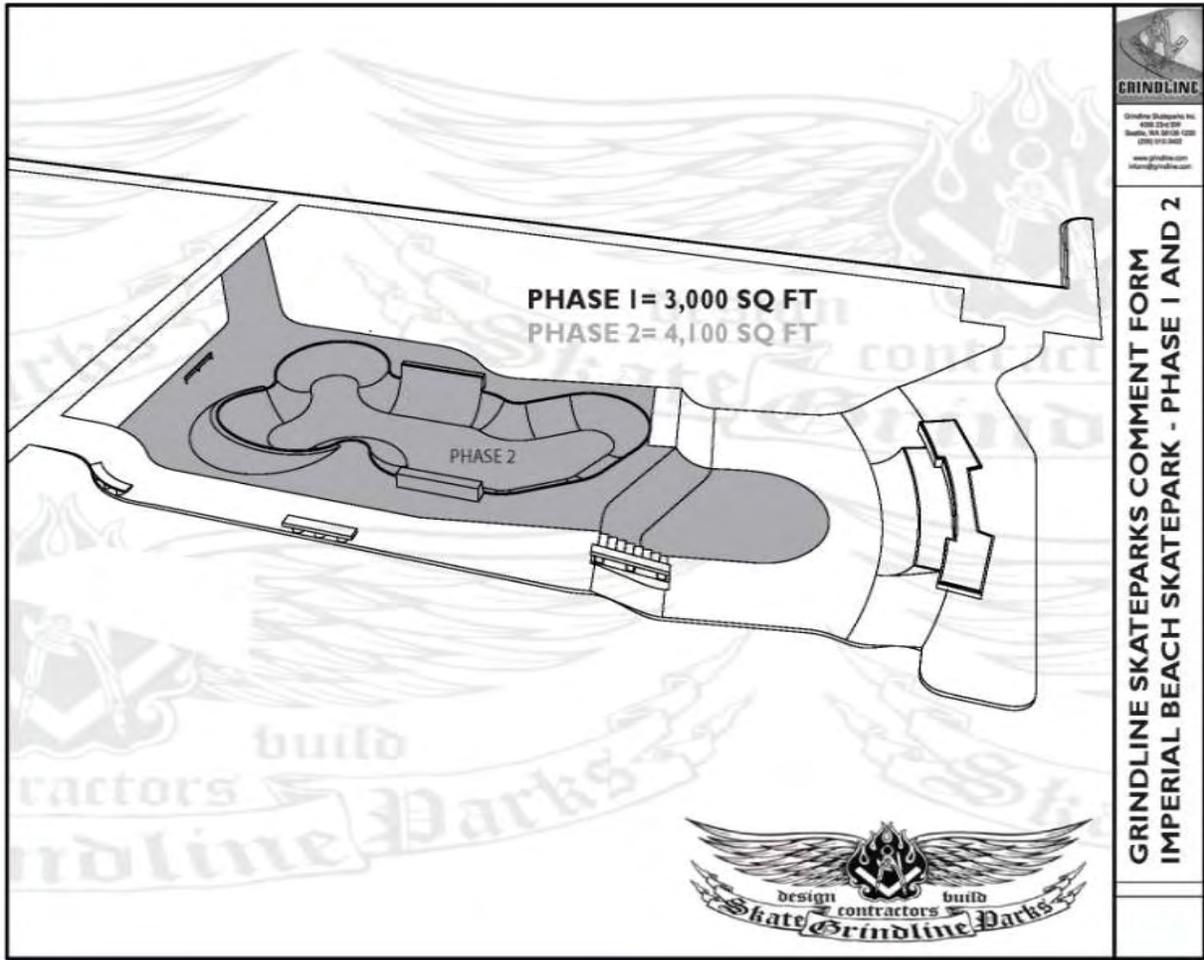
**Less Than Significant Impact.** A study of the existing parking facilities at Sports Park and parking studies at the Oceanside skate parks were conducted (studies attached). Usage of the skate parks ranged from 2 to 12 skateboarders. Many of them skateboarded to the facility without the use of automobiles. Some were dropped off by their parents. The peak parking usage currently at Sports Park occurs during softball season. The parking impact from skate boarding activities would not be significant.

**XVII. UTILITIES AND SERVICE SYSTEMS -- Would the project:**

- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

**Less Than Significant Impact.** The project is a priority project and is subject to the City's SUSMP ordinance (IBMC Chapter 8.32). Any storm water runoff impacts would be mitigated to a level of insignificance by ordinance. Storm water will be treated, if required, before it is discharged to the existing storm drain system (which discharges to the Tijuana River Estuary) and/or the differential volume between pre-development and post-development conditions will be infiltrated into the ground.







**REFERENCES:**

City Of Imperial Beach General Plan and Local Coastal Plan, October 19, 1994.

SANDAG. Water Quality Element – Regional Growth Management Strategy. November 1997.

California Regional Water Quality Control Board. Order No. 2001-01. “Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the incorporated cities of San Diego County, and the San Diego Unified Port District.” February 21, 2001.

California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-0001, NPDES NO. CAS0108758, Waste Discharge Requirements For Discharges of Urban Runoff From the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority, January 24, 2007.

California Air Resources Board, Climate Change Scoping Plan, adopted December 12, 2008

## **ATTACHMENTS 3 & 4**

**Patronage, Noise, and Parking Study of Oceanside's Martin Luther King Skate Park and  
Melba Moore Skate Park and of Imperial Beach's Sports Park October 15, 2009  
Sports Park Parking Survey November 25, 2009**



**PUBLIC WORKS**

825 IMPERIAL BEACH BOULEVARD • IMPERIAL BEACH, CALIFORNIA 91932

Oceanside Skateboard Parks



Sirs:

In my observations of the Martin Luther King and Melba- Bishop Skateboard Park ... these are my findings:

Oceanside MLK and Melba – Bishop Skateboard Park:

Both park are a part of existing parks and are in proximity to public schools and are open from Dusk to Dawn and is posted to be use at skaters own risk. The parks have no lights; are un-staffed; opened to public; are un-gated; concrete surfaced; limited observation facilities. I.e. bleachers, tables or benches. There are nearby public restroom facilities and auto parking.

Skateboard Park usage:

- The greatest week days use is immediately at the end of the school day ... approximately 2:30 PM to 4:30 – 5:00 PM.
- Week-end use hours varies from 10:00 AM to late afternoon early evening
- Skater are mixed, younger and post teen skaters with MLK Park being used more by younger skaters than that of Melba – Bishop which is frequent more by post teen skaters.
- Melba- Bishop Park is also used in the later hours than that of MLK Park.
- MLK Park also has a nearby cover patio area, which attracts groups of Middle School age student for after school gathering and socializing. These gathering intermingle with the skaters and expand the park facility use beyond the skate-bowl area.

Parking Facilities:

- The available auto parking at each park is adjacent to the Skate Board area; the lot is sparingly used by the skaters. During the period of my observation I only witnessed 3 High School students using the parking lot; most skaters arrived on their boards and some dropped off at the park entrance.

Near-by Residences:

- There are no residences near either of the skate parks .... MLK Skate board area is surrounded by ball fields, parking lot which is adjacent to a major street, tot lot for little people and multiple use open space. ... Melba – Bishop Skateboard area is similar to MKL Park with the exception of residents on one side atop the park (an approximate 10 feet embankment above the skate board area) and across a secondary street.

## Data Collected:

### Sound Readings:

- Sound readings at MLK Skate Park Friday 9/18/2009.. 1:30 PM to 4:00 PM.
- Sound readings at MLK Skate Park Saturday 9/19/2009.. 12:30 PM to 2:00 PM.
- Sound readings at Melba- Bishop Skate Park Saturday 9/19/2009.. 11:00 AM to 2:00 PM.
- Sound readings at Melba- Bishop Skate Park Friday 9/18/2009.. 4:00 PM to 6:00 PM.

### Photos:

- Oceanside MIK Skateboard Park.
- Oceanside Melba – Bishop Skateboard Park.

## Sports Park Imperial Beach Skateboard Parks

### Imperial Beach Skateboard Park: (Sports Park)

Observation at the proposed Imperial Beach Skateboard Park is also in proximity to public schools and will be open from Dusk to Dawn and will be posted to be use at skaters own risk. The park will have no lights; be un-staffed; opened to public; un-gated; concrete surfaced; limited observation facilities. I.e. bleachers, tables or benches. There are nearby public restroom facilities and auto parking.

### Items under Consideration:

- Skateboard Park usage.
- Parking available.
- Nearby Residences.

### Skateboard Park usage:

- 7500 Square Foot Park is under design, usage is undetermined at this time

### Parking Available:

- Parking available at and around Park.
  1. At the South West portion of Park near Snack Bar and Soft Ball Field. There are 2- ADA stalls, 31 Public stalls and 4 Reserved for concession stalls.
  2. North West End of Sports Park above Tot Lot and covered Patio. 2- ADA stalls, 17 stalls plus 32 stall on West side of divider and adjacent to apartments.
  3. East side of Sports Park and West of alley South of Proposed Skateboard Park ... 1- ADA stall and 25 Public stalls.
  4. Available curb side parking .... Imperial Beach Blvd. North of Gym ... 5 spaces. Fern Avenue between 5<sup>th</sup> and alley adjacent to park ..... 6 spaces
- Total parking: 5- ADA spaces, 109 parking stalls and 11 curb spaces.

### Near-by Residences:

- The resident nearest to the Propose Skateboard Park is 54 feet south and on the East side of the common alley. Sound readings were taken at the corner of the dwelling as denoted on the attached charts. The highest recorded sound were those of overhead flying helicopters and those of double Soft Ball games on the fields which are 18 feet West of the dwelling and parallel for entire length. Note that the Skateboard Park distant of 54feet is measured from corner to corner of the dwelling and Skateboard Park, and is perpendicular.

### Data Collected:

#### Sound Readings:

- Sound readings at Sports Park Tuesday 9/29/2009..3:30 PM to 4:00 PM. At East side of alley at corner of house. At West side of alley by Gym.
- Sound readings at Sports Park Saturday 10/3/2009..11:10 are to 12:45 PM. At East side of Sports Park at West side of Sports Park.
- Sound reading were discontinued on Saturday 10/3/2009 because reading were becoming repetitious after 12:45 PM and remained same two days end at 2:00 PM

#### Parking:

- Took inventory of available legal parking on site and of offsite parking.



<b>LOCATION</b> <i>Martin Luther King Skate Park 4300 Mesa Drive Oceanside California</i> <i>Saturday 9/19/2009 Arrival @ 12:30PM</i>					
NOTES!!!	TIME	READING	SKATERS	A/T/B	OTHER REMARKS
50-120 RANGE  5 MIN. INTERVAL	12:30 PM	58.0 - 60.2	3 TO 4	NO EFFECT	One board got loose
	12:35 PM	57.7 - 59.2	4 TO 6	NO EFFECT	
	12:40 PM	62.8 - 60	2 TO 3	NO EFFECT	
	12:45 PM	53.0 - 59	2 TO 4	NO EFFECT	Most of the skaters are male
	12:50 PM	68 - 67	4 TO 5	NO EFFECT	
NOTE!!!!	Party start to set up with Music Boxes and Astro Jump. Reading were non-related to Skate-Board park activities				
Conclusion:	1:15 PM	Party guest are arriving for cook-out			Party underway
	1:15 PM	79 - 85	Music blasting ....		
	1:30 PM	Party activities sound are overwhelming and area is nonconductive for readings			
	Wrapped up for the day in Oceanside Saturday 9/19/2009 2:00 PM				
<b>LOCATION</b> <i>Melba - Bishop Skate Park 5306 North River Drive Oceanside California</i> <i>Saturday 9/19/2009 Arrival @ 11:00 AM</i>					
NOTES!!!	TIME	READING	SKATERS	A/T/B	OTHER REMARKS
50-120 RANGE  2 MIN. INTERVAL	11:00 AM	60.2 - 63.4	4 To 6	NO EFFECT	High Winds  (Reading 72) Loud Talking (Reading 68) Skater took big spill (Reading 70) Loud Talking (Reading 62) Car Alarm
	11:03 AM	61.4 - 62.0	6 TO 3	NO EFFECT	
	11:05 AM	58.3 - 63.9	7 TO 9	NO EFFECT	
	11:06 AM	64.3 - 65.0	6 TO 3	NO EFFECT	
	11:07 AM	65.3 - 61.7	4 TO 6	NO EFFECT	
	11:10 AM	54.3 - 57.7	5 TO 3	NO EFFECT	
	11:15 AM	52.5 - 60.3	8 TO 10	People	
	11:17 AM	61.1 - 59	2 TO 4	Spill	
	11:20 AM	62.8 - 60.0	6 TO 10		
	11:25 AM	57.6 - 60.2	4 TO 6	A	
	11:28 AM	55.2 - 59	6 TO 8		
	11:30 AM	60.1 - 64	7 TO 9		
	11:34 AM	61 - 67	6 TO 10		
	11:36 AM	62 - 61.2	8 TO 10		
	11:40 AM	66.6 - 68	6 TO 8		
	11:00 AM	68.2 - 72	4 TO 6		
	11:00 AM	75.7 - 80	6 TO 8		
NOTE!!!!	Skaters Resting under tree for a while ... No activity				
	11:55 AM	62.7 - 64.0	10 TO 12		Skaters leaving park
	11:57 AM	59.5 - 60.3	6 TO 8		
	12 :00 Noon	56.6 - 61.0	4 TO 6		
NOTE!!!!	Skaters left park ....No activity 12:300 PM				
<b>Descriptions:</b>	A/T/B ..... Auto/Trucks/Buses Skaters ..... No. of Skaters using Park Reading ..... Decibel (Unit for measuring relative loudness of a sound) recording on meter Time ..... Time of day reading was taken Range ..... Distance recording on meter Other Remarks .... Outside factors that affect Readings				

Melba - Bishop Skate Park 5306 North River Drive Oceanside California Friday 9/18/2009 Arrival @ 4:00 PM					
LOCATION	TIME	READING	SKATERS	A/T/B	OTHER REMARKS
50-120 RANGE	4:00 PM	54.7 - 57.7	4		
	4:02 PM	57.7 - 59.2	3 TO 4		One board got loose
	4:05 PM	62.8 - 60	2 TO 3	A	(Reading 64.0)
	4:06 PM	53.0 - 59	2 TO 4		(Reading 78) Skaters in back of me on sidewalk
	4:12 PM	68 - 67	4 TO 5	B	(Reading 70.0)
	4:16 PM	57.3 - 52	2 TO 3		
	4:20 PM	00 - 00	0		Skaters Resting under tree
	4:23 PM	61.1 - 59	4 TO 5		Schools out younger skaters
	4:26 PM	62.8 - 60.0	6 TO 10	T	(Reading 70.0)
	4:30 PM	57.6 - 60.2	8 TO 9	T	(Reading 71.0)
	4:33 PM	55.2 - 59	4 TO 6		* Young People meeting around area
	4:40 PM	60.1 - 64	6 TO 8		
	4:42 PM	53.0 - 55.0	8 TO 5		
	NOTE!!!!	Skaters taking a rest under trees.... There were a few spill skaters have no protective gear Few younger skaters showed up with proactive gear.. Helmets and pads			
	4:55 PM	62 - 61.2	8 TO 12		New older skaters arriving
	4:58 PM	71.6 - 75.0	10 TO 12		(Reading 78) Skaters in back of me on sidewalk
	5:02 PM	68.2 - 72.0	8 TO 10		
	5:05 PM	62.0 - 65.0	10 TO 8		
	5:08 PM	65.3 - 60.0	6 TO 8		
	5:30 PM	58.0 - 62.1	4 TO 6		
NOTE!!!!	Activity is slowing down .... Younger skaters are leaving. Older skaters are congregating and talking under trees and taking in refreshments				
	5:45 PM	65.0 - 70.0	6 TO 8		
	5:48 PM	66.3 - 70.2	8 TO 9		New Group ...Bigger Boys
	6:00 PM	65.3 - 67.4	9 TO 12		
<b>Descriptions:</b>	A/T/B ..... Auto/Trucks/Buses Skaters ..... No. of Skaters using Park Reading ..... Decibel (Unit for measuring relative loudness of a sound) recording on meter Time ..... Time of day reading was taken Range ..... Distance recording on meter Other Remarks .... Outside factors that affect Readings				

## Imperial Beach Sports Park

LOCATION	Sports Park Proposed Skate Park 425 Imperial Beach Blvd Imperial Beach California 91932 Tuesday 9/29/2009 Arrival @ 8:00 AM					
NOTES!!!	TIME	READING	PEOPLE	ACTIVITY	A/T/B/AIR	OTHER REMARKS
50-120 RANGE	8:00 AM	None	None			
NOTE!!!!	Took no readings at this time park is empty. Also schools are closed for next two week on break					
30-100 RANGE	3:30 PM	55.0 - 56.0	10 TO 12	Socializing		On picnic bench
NOTE!!! Set up for readings at East side of alley by house	3:33 PM	56.0 - 63.0	8 TO 12	Socializing	Helicopter	(Reading 69 -74)
	3:35 PM	50.3 - 47.7	7 TO 10	Socializing	Helicopter	(Reading 67 -70)
	3:40 PM	54.0 - 57.7	6 TO 9	Soft Ball	Helicopter	(Reading 70 -74)
30-100 RANGE	3:43 PM	55.1 - 59.0	7 TO 9	Soft Ball		
	3:45 PM	62.8 - 60.0	6 TO 10	Soft Ball	Helicopter	(Reading 68 -73)
	3:47 PM	58.1 - 59.0	8 TO 9	Soft Ball		
NOTE!!! Set up for readings at West side of alley by Gym	3:49 PM	56.2 - 54	4 TO 6	Soft Ball	Helicopter	No More
	3:51 PM	55.7 - 58	6 TO 8	Soft Ball		
	3:56 PM	51.0 - 54.0	7 TO 9	Soft Ball		
	4:00 PM	53.0 - 55.0	8 TO 5	Soft Ball		
NOTE!!!!	Discontinued reading for the day ... Soft ball practice continuing and reading are not noticeably changing and helicopters are no longer flying overhead.					
<b>Descriptions:</b>	A/T/B ..... Auto/Trucks/Buses Skaters ..... No. of Skaters using Park Reading ..... Decibel (Unit for measuring relative loudness of a sound) recording on meter Time ..... Time of day reading was taken Range ..... Distance recording on meter Other Remarks .... Outside factors that affect Readings					
LOCATION	Sports Park Proposed Skate Park 425 Imperial Beach Blvd Imperial Beach California 91932 Saturday 10/3/2009 Arrival @ 11:00 AM					
50-120 RANGE	11:10 AM	68.0 - 75.0	30 TO 40	Soft Ball		Families Socializing
NOTE!!! Set up for readings at East side of Park	11:15 AM	70.0 - 73.0	Many	Soft Ball		Family activities on grass in the area of the proposed Skateboard Park
	11:20 AM	68.3 - 71.7	Many	Soft Ball		
	11:25 AM	69.0 - 70.7	Many	Soft Ball		
	11:30 AM	75.0 - 78.0	Many	Soft Ball		New Soft ball game began on the North end of the field (2 games playing)
	11:40 AM	75.0 - 78.0	Many	Soft Ball		
30-100 RANGE	11:50 AM	70.0 - 73.0	Many	Soft Ball		
NOTE!!! Set up for readings at West side of Park	12:00 PM	68.3 - 71.7	20 TO 30	Soft Ball		New Soft ball game began on the North end of the field (2 games playing)
	12:30 PM	75.0 - 78.0	20 TO 30	Soft Ball		
	12:45 PM	69.0 - 70.7	25 TO 30	Soft Ball		
NOTE!!!!	Beginning at 12:30 PM Thru 2:00 PM readings are holding and repeating, all of the activities are consistent. These reading are remaining between 70.76 - 73.98. The soft ball games are continuing and the activities are of the same type with the people changing at 2:00 PM the games are over and the park is being vacated. Until now parking has been at a premium on the park and on the street. There has been no air traffic today in this area.					

# Oceanside MLK Skateboard Park



PHOTO / VIDEO GALLERY for the Oceanside MLK Skatepark





**Park:** Oceanside MLK

**City:** Oceanside

**County:** San Diego      **State:** CA

**Location:** Martin Luther king, Jr. Park

**Address:** 4300 Mesa dr.

**Has Lights:** No      **Ownership:** Public

**Designer:** Grindline      **Year:** 2008

**Gated:** No      **Opened:**

**Terrain:** Has Vert,      **Staffed:** No

Street, Tranny      **Surface:** Concrete

**Inside/Outside:** Outside

**Park Size:** 6,000 sq ft      **Visited?** Yes

**Review:** Park is fun, small flow section with a squared horseshoes with tile and pool coping at the end connected to a street/bank area. This park is on the small side with crowded conditions.



photo. soup



photo. soup

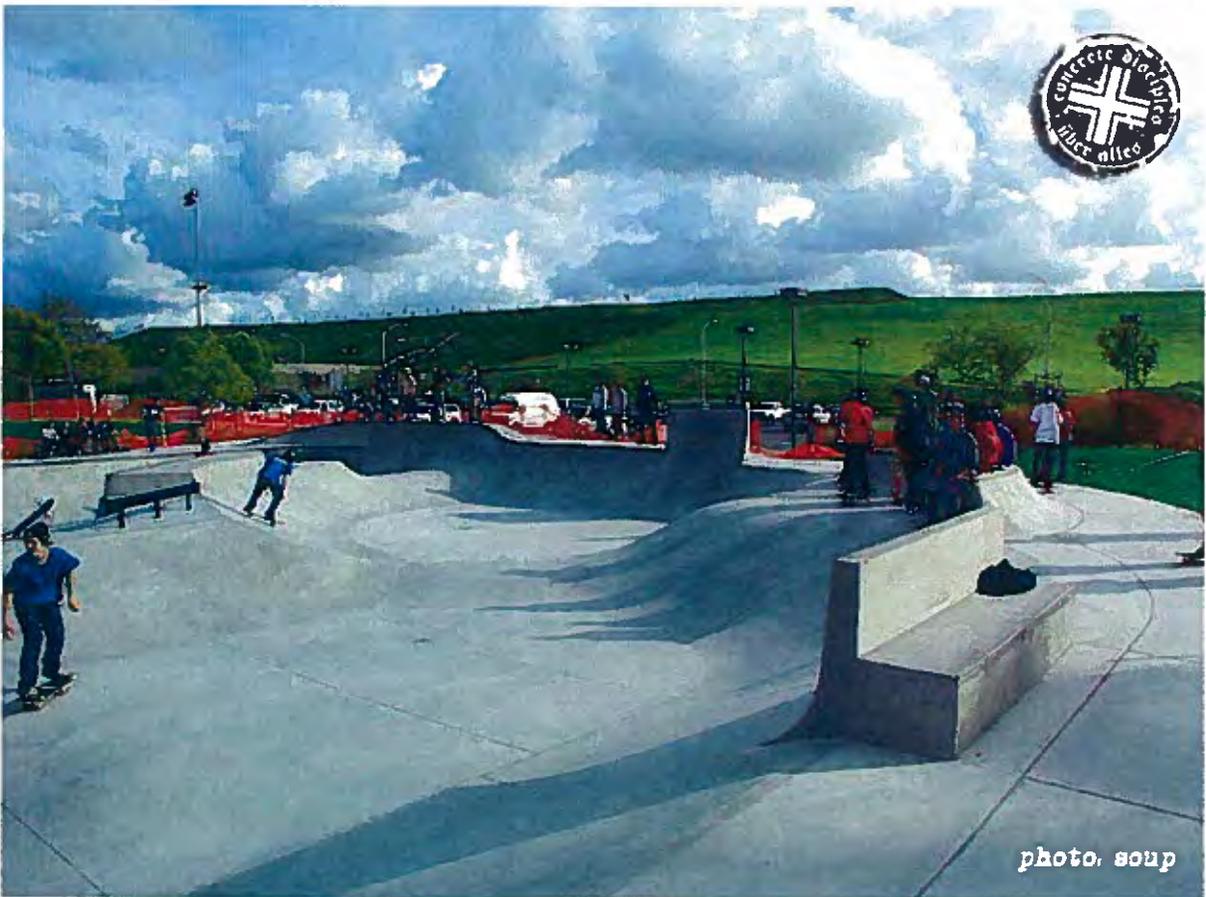
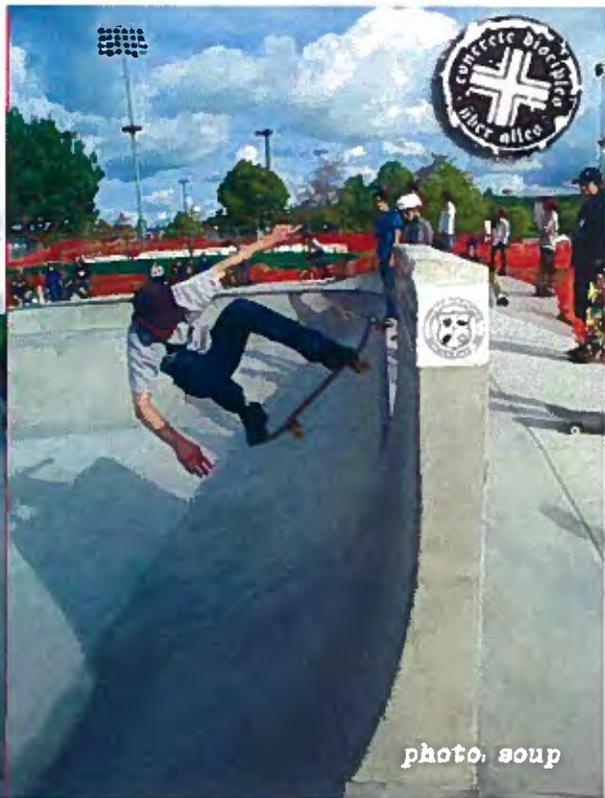






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Reader Reviews & Comments: **NEW**

No comments have been provided

[digitalmidget.com](http://digitalmidget.com)

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## RULES and REGULATIONS

### UNSUPERVISED PUBLIC SKATEBOARD PARK

- Skateboards in Line Classes City
- No bicycles in skating area
- Commercially manufactured HELMET, ELBOW and KNEE PADS must be worn at all times by persons in skating area. Failure to wear any of the above equipment may result in a citation under the ordinance O.C.C. Section 20.24.
- Minimum Age Requirement, 14 years of age unless accompanied by a parent or guardian
- No smoking allowed in City Parks
- No amplified music
- No formal contests of any kind without written approval from Parks & Recreation Department
- Do not use facilities if any hazardous conditions arise- Report any damaged/hazardous conditions to the City of Oceanside

### SKATE WITH RESPECT

THIS SKATEPARK WAS BUILT FOR YOU BY THE CITY OF OCEANSIDE. PLEASE SHOW RESPECT TO THE SKATEPARK, OTHER PEOPLE AND TO THE SURROUNDING PARK AREAS.

City of Oceanside

NOTE: This is an unattended facility. Failure to comply with any of these regulations may result in a citation or removal from the park. Skateboarding and using the facilities are prohibited for anyone under the age of 14. Skateboarding and using the facilities are prohibited for anyone who is intoxicated. Use of any facility may result in a citation or removal from the park. O.C.C. Sec. 20.23, 20.22, 20.21.3

  
**NO SMOKING**  
O.C.C. Sec. 10A.3

**ENTERING SKATE PARK**





**RULES and REGULATIONS**  
UNSUPERVISED PUBLIC SKATEBOARD PARK

**SKATE WITH RESPECT**  
THIS SKATEPARK WAS BUILT FOR YOU BY THE CITY OF OCEANASIDE.  
PLEASE SHOW RESPECT TO THE SKATEPARK, OTHER PEOPLE AND TO THE SURROUNDING PARK AREAS.



SMOKING





















# 2009

## Oceanside - Melba Bishop Skateboard Park



PHOTO / VIDEO GALLERY for the Oceanside - Melba Bishop Skatepark





**Description:** Hubba



**Description:** Spine





**Description:** Overview 2



**Melba Bishop  
Park & Recreation Center**







**Melba Bishop  
Park & Recreation Center**



## **RULES and REGULATIONS**

### **UNSUPERVISED PUBLIC SKATEBOARD PARK**

- Skateboards, In-Line Skates Only
- No bicycles in skating area
- Commercially manufactured HELMET, ELBOW and KNEEPADS must be worn at all times for persons in skating area. Failure to wear any of the above equipment may result in a citation under the ordinance O.C.C. Section 20.24.3
- Minimum Age Requirement: 14 years of age unless accompanied by a parent or guardian
- No smoking allowed in City Parks
- No amplified music
- No formal contests of any kind without written approval from Parks & Recreation Department
- Do not use facilities if any hazardous conditions arise. Report any damaged/hazardous conditions to the City of Oceanside.

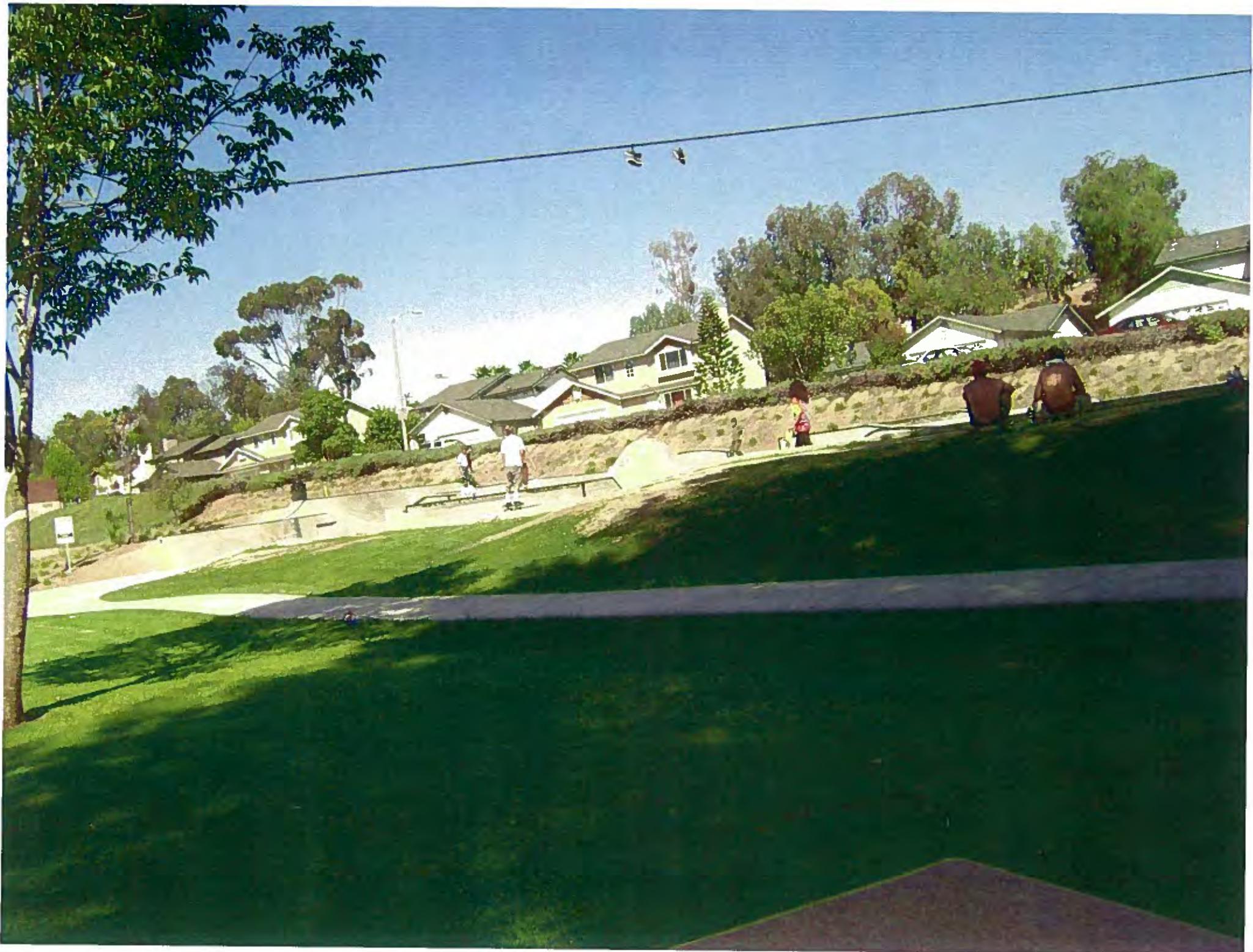
### **SKATE WITH RESPECT**

THIS SKATEPARK WAS BUILT FOR YOU BY THE  
CITY OF OCEANSIDE.  
PLEASE SHOW RESPECT TO THE SKATEPARK,  
OTHER PEOPLE AND TO THE SURROUNDING PARK AREAS.



NOTE: This is an unsupervised facility. Failure to comply with any of the above regulations may result in a citation or removal from the park. Skateboarding and sliding are hazardous recreational activities. Use of this facility may result in death, paralysis, brain damage, broken bones, or other serious injury. Any use is at your own risk.  
O.C.C. 71.50, 71.51, 71.52, 71.56.3







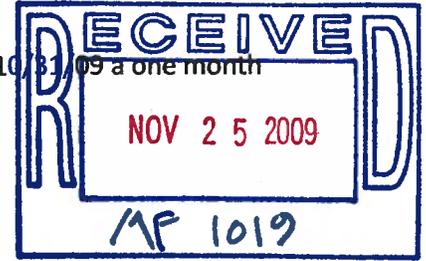






**SPORTS PARK TRACK SHEET FOR PARKING LOTS USE.**

The tracking sheet is done on a daily bases starting 10/01/09 and will go to 10/31/09 a one month tracking time frame. On three (3) sheets per time frame.



**TRACKING SHEET 1- FOR 7:30 AM TO 11:30 AM**

Date	Lot-A	Lot-B	Lot-C	Lot-D		Total for time frame
10/01/09	8	11	9	1	0	29
10/02/09	7	9	11	2	1	30
10/03/09	3	11	28	9	6	57
10/05/09	6	13	6	1	1	27
10/06/09	8	13	7	1	1	30
10/07/09	4	11	9	1	0	25
10/08/09	2	9	11	2	0	24
10/09/09	9	6	5	3	1	24
10/10/09	17	17	29	8	5	76
10/12/09	4	11	3	1	0	19
10/13/09	7	9	7	2	0	25
10/14/09	8	10	6	1	0	25
10/15/09	5	7	13	1	1	27
10/16/09	7	8	9	1	3	28
10/17/09	21	17	31	10	7	86
10/19/09	3	7	7	1	0	18
10/20/09	7	6	5	2	1	21
10/21/09	4	6	11	1	1	23
10/22/09	7	15	12	3	0	37
10/23/09	11	11	19	1	3	45
10/24/09	23	18	27	9	6	83
10/26/09	5	9	7	1	1	23
10/27/09	7	11	4	1	1	24
10/28/09	7	9	11	3	1	31
10/29/09	9	6	5	1	0	21
10/30/09	6	14	11	1	2	34
10/31/09	24	16	27	10	7	84

TOTAL - 978

**Parking lot A-** is the parking lot behind gym and there is 2-handicap and 25 regular parking spots.

**Parking lot B-** is the parking upper lot from picnic area and there is 2-handicap and 18 regular parking spots

**Parking lot C -** is the parking lot by field A & bath rooms there is 2-handicap and 31 regular parking spots and 4 reserved spots.

**Parking lot D -** is the parking lot by field E&F there is 1-handicap and 10 regular parking spots.

The sign for handicap 

Any questions please see James Coates, Recreation Coordinator

978 • +  
1,098 • +  
1,660 • +  
3,736 • \*+

**SPORTS PARK TRACK SHEET FOR PARKING LOTS USE.**

The tracking sheet is done on a daily bases starting 10/01/09 and will go to 10/31/09 a one month tracking time frame. On three (3) sheets per time frame.

**TRACKING SHEET 2- FOR 11:30 am to 3:30 pm**

Date	Lot-A	Lot-B	Lot-C	Lot-D		Total for time frame
10/01/09	4	11	7	1	1	24
10/02/09	16	14	6	3	0	39
10/03/09	23	17	23	9	5	77
10/05/09	9	7	3	1	1	21
10/06/09	7	9	6	3	0	25
10/07/09	12	14	11	1	0	38
10/08/09	17	7	4	1	1	30
10/09/09	21	13	12	1	1	48
10/10/09	25	<del>24</del> 18	31	10	7	91
10/12/09	13	7	4	3	0	27
10/13/09	10	4	7	1	0	22
10/14/09	7	9	15	1	0	32
10/15/09	11	11	7	0	0	29
10/16/09	19	19	5	1	1	43
10/17/09	22	3	31	1	7	64
10/19/09	11	9	7	0	0	27
10/20/09	17	11	21	0	1	22
10/21/09	9	7	6	0	1	23
10/22/09	17	12	5	1	0	35
10/23/09	19	10	9	1	0	39
10/24/09	21	16	27	10	6	80
10/26/09	7	7	3	0	0	17
10/27/09	14	9	17	1	0	41
10/28/09	11	3	7	1	0	22
10/29/09	17	7	5	1	1	31
10/30/09	23	8	22	7	1	61
10/31/09	25	18	30	10	7	90

Total 1098

**Parking lot A-** is the parking lot behind gym and there is 2-handicap and 25 regular parking spots.

**Parking lot B-** is the parking upper lot from picnic area and there is 2-handicap and 18 regular parking spots

**Parking lot C -** is the parking lot by field A & bath rooms there is 2-handicap and 31 regular parking spots and 4 reserved spots.

**Parking lot D -** is the parking lot by field E&F there is 1-handicap and 10 regular parking spots.

The sign for handicap 

Any questions please see James Coates, Recreation Coordinator

**SPORTS PARK TRACK SHEET FOR PARKING LOTS USE.**

The tracking sheet is done on a daily bases starting 10/01/09 and will go to 10/31/09 a one month tracking time frame. On three (3) sheets per time frame.

**TRACKING SHEET 3- 3:30 pm to 7:30 pm**

Date	Lot-A	Lot-B	Lot-C	Lot-D		Total for time frame
10/01/09	18	13	28	1	0	60
10/02/09	19	15	23	3	0	60
10/03/09	16	17	30	9	5	77
10/05/09	17	18	31	3	6	75
10/06/09	21	18	31	4	6	80
10/07/09	15	11	7	5	3	41
10/08/09	17	14	5	7	3	46
10/09/09	22	12	21	7	2	64
10/10/09	9	11	5	10	7	42
10/12/09	18	16	31	2	7	74
10/13/09	21	18	31	5	7	82
10/14/09	15	7	9	1	3	35
10/15/09	13	9	11	6	4	43
10/16/09	11	14	7	5	2	39
10/17/09	10	10	24	10	7	61
10/19/09	18	17	31	3	3	72
10/20/09	24	18	31	6	4	83
10/21/09	17	16	17	2	2	54
10/22/09	16	13	14	5	8	53
10/23/09	14	15	19	7	5	60
10/24/09	11	9	29	9	6	64
10/26/09	17	16	30	3	4	70
10/27/09	21	18	31	7	5	82
10/28/09	14	11	9	3	5	42
10/29/09	17	10	18	4	5	54
10/30/09	25	11	22	10	7	75
10/31/09	11	15	29	10	7	72

TOTAL - 1,660

**Parking lot A-** is the parking lot behind gym and there is 2-handicap and 25 regular parking spots.

**Parking lot B-** is the parking upper lot from picnic area and there is 2-handicap and 18 regular parking spots

**Parking lot C -** is the parking lot by field A & bath rooms there is 2-handicap and 31 regular parking spots and 4 reserved spots.

**Parking lot D -** is the parking lot by field E&F there is 1-handicap and 10 regular parking spots.

The sign for handicap 

Any questions please see James Coates, Recreation Coordinator



**COMMUNITY DEVELOPMENT DEPARTMENT**  
825 IMPERIAL BEACH BOULEVARD • IMPERIAL BEACH, CALIFORNIA 91932

**JANUARY 20, 2010**

**MITIGATED NEGATIVE DECLARATION FOR  
IMPERIAL BEACH SKATEBOARD PARK PROJECT (MF 1019)  
RESPONSES TO COMMENTS**

A Notice of Intent to Adopt a Mitigated Negative Declaration (MND) for the Imperial Beach Skateboard Park project (MF 1019) at 425 Imperial Beach Boulevard was released on December 3, 2009 advising that the MND was available for public review from December 3, 2009 to January 4, 2010 and that comments would be received until 5:00 p.m. January 4, 2010. The MND was also sent to the State Clearinghouse for review (SCH#2009121003) by state agencies from December 2, 2009 to January 4, 2010.

The following letters were received within the comment period::

**PRIVATE CITIZENS:**

Email dated December 17, 2009 from Buccola Engineering.

**FEDERAL AGENCIES:**

none

**STATE AGENCIES:**

A comment letter dated January 4, 2010 from the Native American Heritage Commission (NAHC) was received on January 6, 2010 after the posted deadline. The letter notes that the NAHC performed a Sacred Lands File search and Native American cultural resources were not identified within one-half mile of the area of potential effect.

**LOCAL AGENCIES:**

Email dated December 15, 2009 from Imperial Beach Public Works Director Hank Levien.

To finalize the document, staff has prepared Responses to Comments.

Letter of Comment	Response to Comment
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**From:** Hank Levien  
**Sent:** Tuesday, December 15, 2009 12:52 PM  
**To:** Jim Nakagawa  
**Cc:** Greg Wade; Gary Brown; Chris Helmer  
**Subject:** FW: SUSMP Ordinance

Jim,

I request that you relook at the opinion that the Skate Park installation is a SUSMP project in view of the attached draft SUSMP ordinance. This ordinance is expected to be approved in the January – February 2010 time period. If you will look at the Priority Projects definitions on page 3 & 4 of the ordinance, you will note that the SUSMP criteria (priority project) would not make the Skate Park a priority project.

The Engineer for the Skate Park is asking for \$17,000 to develop and design a project element that treats the Skate Park water runoff. Then there is the additional cost for the construction and maintenance. It is my opinion that since the ordinance will be changed in the next two months, it is not in the best interest of the City to design a project to a standard that will not be required in two months. Thanks for your consideration on this matter.

Since the cost to pay for the SUSMP design will be before the City Council tomorrow, Wednesday, December 16, 2009, I request you earliest determination.

Thanks, Hank

The proposed skate park is characterized as a hardscape facility whose extent in creating additional impervious surfaces would qualify it as a “priority project” pursuant to existing storm water regulations and would be subject to the City’s Standard Urban Storm Water Mitigation Plan (SUSMP: IBMC Chapter 8.32). However, the San Diego Regional Water Quality Control Board (Regional Board) issued on January 24, 2007, the new municipal storm water National Pollutant Discharge Elimination System (NPDES) permit (Order No. R9-2007-0001, NPDES No. CAS0108758) that requires the adoption of a new SUSMP ordinance by San Diego local governments (copermittees).

The requirement to implement a program for development planning is based on Federal and State Statutes including: Section 402 (p) of the Clean Water Act, Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (“CZARA”), and the California Water Code. The Clean Water Act amendments of 1987 established a framework for regulating urban runoff discharges from municipal, industrial, and construction activities under the NPDES program. The municipal permit requires the implementation of a Jurisdictional Urban Runoff Management Program (JURMP) and the adoption of a local SUSMP that incorporates the minimum Low Impact Development (LID) and Best Management Practices (BMP) requirements developed in the Countywide Model SUSMP document. The City of Imperial Beach will consider the adoption of the updated SUSMP ordinance sometime early in 2010.

The proposed SUSMP ordinance makes a change in the

Letter of Comment	Response to Comment
<p>-----Original Message-----                      From: Larry Rutherford [mailto:Larry@BuccolaEng.com]                      Sent: Thursday, December 17, 2009 1:34 PM                      To: Hank Levien                      Cc: Jim Nakagawa; Matt Fluegge (E-mail)                      Subject: FW: Imperial Beach Skatepark -</p> <p>Hank,</p> <p>Pursuant to our conversation last evening, it is my understanding that the City of Imperial Beach has now made a determination that the IB Skateboard Park will not be prioritized as a "Priority Project Category" as originally indicated by the City. The City's new interpretation is based on the SDRWQB municipal permit order no. R9-2007-0001 section D.1.d.(2) (g) Environmentally Sensitive Areas (ESA's). "All development located within or directly adjacent to or discharging directly to an ESA (where discharges from the development or redevelopment will enter receiving waters within the ESA), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition. "Directly adjacent" means situated within 200 feet of the ESA. "Discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands."</p> <p>You have indicated that the site is within the area of the ESA, and site flows do commingle with flows from adjacent lands. The site will therefore not be subject to the design standards set forth within Chapter 8.32. of the City of Imperial Beach's, Standard Urban Stormwater Mitigation Plan (SUSMP). Which had it been would have required the City to implement a Hydrology Study, Storm Water Mitigation Plan (SWMP) and an Operation and Maintenance Plan (O&amp;M). (These were included in our previous cost proposal to Grindline Inc.)</p> <p>Regardless of any project's category, all new development projects must include control measures to reduce the discharge of stormwater pollutants to the maximum extent practicable. These are to include: (1) Implementation of</p>	<p>definition of:</p> <p>Environmentally Sensitive Areas (ESAs). All development located within or directly adjacent to or discharging directly to an ESA (where discharges from the development or redevelopment will enter receiving waters within the ESA), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition. "Directly adjacent" means situated within 200 feet of the ESA. "Discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.</p> <p>This change would declassify the proposed skate park facility as a "priority development project" and, therefore, would not subject the project to SUSMP regulations. The final design for the skate park will need to demonstrate that runoff from the facility will be in compliance with the City's updated storm water regulations that are in effect at the time ministerial permits are issued and construction starts for the skate park project.</p> <p>The mitigation measure addressing storm water issues will be changed to accommodate compliance with any new storm water regulations that are in effect at the time permits are issued and construction starts for the project.</p>

Letter of Comment	Response to Comment
<p>some source control BMP's (2) Inclusion of some LID features such as maximizing infiltration through sand filters and (3) Compliance with requirements for construction-phase control for sediment and other pollutants.</p> <p>As you requested we will implement a design to maximize infiltration by means of a trench type sand filters on the site... We will provide a scope of work and proposed cost itemization for the design to Grindline Inc. for their presentation to the City.</p> <p>If the above is not correct per my understanding of our conversation, please call me.</p> <p>Larry Rutherford            BUCCOLA ENGINEERING, Inc.            3142 Vista Way, Suite 301            Oceanside, CA 92056            (760) 721-2000            Fax (760) 721-2046  <a href="mailto:larry@buccolaeng.com">larry@buccolaeng.com</a></p>	

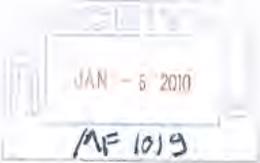
<b>Letter of Comment</b>	<b>Response to Comment</b>
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STATE OF CALIFORNIA Arnold Schwarzenegger, Governor

**NATIVE AMERICAN HERITAGE COMMISSION**  
 915 CAPITOL MALL, ROOM 364  
 SACRAMENTO, CA 95814  
 (916) 653-6251  
 Fax (916) 557-5390  
 Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
 e-mail: [ds\\_nahc@pacbell.net](mailto:ds_nahc@pacbell.net)

January 4, 2010

Mr. Jim Nakagawa  
**CITY OF IMPERIAL BEACH**  
 825 Imperial Beach Boulevard  
 Imperial Beach, CA 91932



Re: [SCH#2009121003 CEQA Notice of Completion: proposed Mitigated Negative Declaration for the Imperial Beach Skateboard Park Project; located in the City of Imperial Beach; San Diego County, California](#)

Dear Mr. Nakagawa:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources.. (Also see *Environmental Protection Information Center v. Johnson (1985) 170 Cal App. 3<sup>rd</sup> 604*) The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ...objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural resources were not identified within one-half mile of the APE. However, there are Native American cultural resources in close proximity to the APE.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached [list of Native American contacts](#). A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 11..

Consultation with tribes and interested Native American tribes and individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 (f) *et seq*), 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate..

A comment letter dated January 4, 2010 from the Native American Heritage Commission (NAHC) was received on January 6, 2010 after the posted deadline. The letter notes that the NAHC performed a Sacred Lands File search and Native American cultural resources were not identified within one-half mile of the area of potential effect. No mitigation measures would be required.

<b>Letter of Comment</b>	<b>Response to Comment</b>
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Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of 'historic properties of religious and cultural significance' may also be protected under Section 304 of the NHPA or at the Secretary of the Interior' discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C, 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

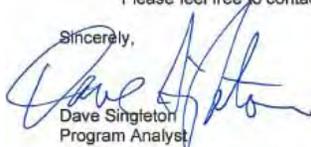
CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Letter of Comment	Response to Comment
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<p style="text-align: center;">Native American Contacts San Diego County January 4, 2010</p> <p>Barona Group of the Capitan Grande Edwin Romero, Chairperson 1095 Barona Road      Diegueno Lakeside      CA 92040 sue@barona-nsn.gov (619) 443-6612 619-443-0681</p> <p>La Posta Band of Mission Indians Gwendolyn Parada, Chairperson PO Box 1120      Diegueno Boulevard      CA 91905 (619) 478-2113 619-478-2125</p> <p>San Pasqual Band of Mission Indians Allen E. Lawson, Chairperson PO Box 365      Diegueno Valley Center. CA 92082 (760) 749-3200 (760) 749-3876 Fax</p> <p>Santa Ysabel Band of Diegueno Indians Johnny Hernandez, Spokesman PO Box 130      Diegueno Santa Ysabel. CA 92070 brandietaylor@yahoo.com (760) 765-0845 (760) 765-0320 Fax</p>	<p>Sycuan Band of the Kumeyaay Nation Danny Tucker, Chairperson 5459 Sycuan Road      Diegueno/Kumeyaay El Cajon      CA 92021 ssilva@sycuan-nsn.gov 619 445-2613 619 445-1927 Fax</p> <p>Viejas Band of Mission Indians Bobby L. Barrett, Chairperson PO Box 908      Diegueno/Kumeyaay Alpine      CA 91903 jrothau@viejas-nsn.gov (619) 445-3810 (619) 445-5337 Fax</p> <p>Kumeyaay Cultural Historic Committee Ron Christman 56 Viejas Grade Road      Diegueno/Kumeyaay Alpine      CA 92001 (619) 445-0385</p> <p>Jamul Indian Village Kenneth Meza, Chairperson P.O. Box 612      Diegueno/Kumeyaay Jamul      CA 91935 jamulrez@sctdv.net (619) 669-4785 (619) 669-48178 - Fax</p>
<p><small>This list is current only as of the date of this document.</small></p> <p><small>Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106, and federal NAGPRA.</small></p> <p><small>This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009121000; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Imperial Beach Skateboard Park; located in the City of Imperial Beach; San Diego county, California.</small></p>	

Letter of Comment	Response to Comment
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<p style="text-align: center;">Native American Contacts San Diego County January 4, 2010</p> <p>Mesa Grande Band of Mission Indians Mark Romero, Chairperson P.O Box 270 Diegueno Santa Ysabel, CA 92070 mesagrandeband@msn.com (760) 782-3818 (760) 782-9082 Fax</p> <p>Kumeyaay Cultural Repatriation Committee Steve Banegas, Spokesperson 1095 Barona Road Diegueno/Kumeyaay Lakeside, CA 92040 (619) 742-5587 (619) 443-0681 FAX</p> <p>Kumeyaay Cultural Heritage Preservation Paul Cuero 36190 Church Road, Suite 5 Diegueno/Kumeyaay Campo, CA 91906 chairman@campo-nsn.gov (619) 478-9046 (619) 478-9505 (619) 478-5818 Fax</p> <p>Clint Linton P.O. Box 507 Diegueno/Kumeyaay Santa Ysabel, CA 92070 (760) 803-5894 cjlinton73@aol.com</p> <p>Kwaaymii Laguna Band of Mission Indians Carmen Lucas P.O. Box 775 Diegueno - Pine Valley, CA 91962 (619) 709-4207</p> <p>Inaja Band of Mission Indians Rebecca Osuna, Spokesperson 309 S. Maple Street Diegueno Escondido, CA 92025 (760) 737-7628 (760) 747-8568 Fax</p> <p><small>This list is current only as of the date of this document.</small></p> <p><small>Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106, and federal NAGPRA.</small></p> <p><small>This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009121003; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Imperial Beach Skateboard Park; located in the City of Imperial Beach; San Diego county, California.</small></p>	
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**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-6251  
Fax (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
e-mail: [ds\\_nahc@pacbell.net](mailto:ds_nahc@pacbell.net)

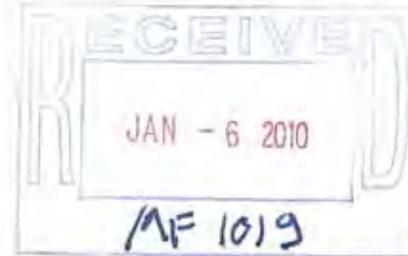


January 4, 2010

Mr. Jim Nakagawa

**CITY OF IMPERIAL BEACH**

825 Imperial Beach Boulevard  
Imperial Beach, CA 91932



Re: SCH#2009121003 CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Imperial Beach Skateboard Park Project; located in the City of Imperial Beach; San Diego County, California

Dear Mr. Nakagawa:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources.. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3<sup>rd</sup> 604) The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural resources were not identified within one-half mile of the APE. However, there are Native American cultural resources in close proximity to the APE.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 11..

Consultation with tribes and interested Native American tribes and individuals, as consulting parties, on the NAHC list ,should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] *et seq*), 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. .

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected the under Section 304 of the NHPA or at the Secretary of the Interior' discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C, 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

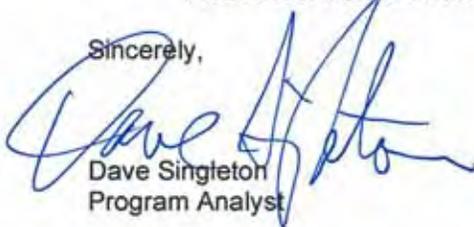
CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contacts  
San Diego County  
January 4, 2010

Barona Group of the Capitan Grande  
Edwin Romero, Chairperson  
1095 Barona Road Diegueno  
Lakeside, CA 92040  
sue@barona-nsn.gov  
(619) 443-6612  
619-443-0681

Sycuan Band of the Kumeyaay Nation  
Danny Tucker, Chairperson  
5459 Sycuan Road Diegueno/Kumeyaay  
El Cajon, CA 92021  
ssilva@sycuan-nsn.gov  
619 445-2613  
619 445-1927 Fax

La Posta Band of Mission Indians  
Gwendolyn Parada, Chairperson  
PO Box 1120 Diegueno  
Boulevard, CA 91905  
(619) 478-2113  
619-478-2125

Viejas Band of Mission Indians  
Bobby L. Barrett, Chairperson  
PO Box 908 Diegueno/Kumeyaay  
Alpine, CA 91903  
jrothauff@viejas-nsn.gov  
(619) 445-3810  
(619) 445-5337 Fax

San Pasqual Band of Mission Indians  
Allen E. Lawson, Chairperson  
PO Box 365 Diegueno  
Valley Center, CA 92082  
(760) 749-3200  
(760) 749-3876 Fax

Kumeyaay Cultural Historic Committee  
Ron Christman  
56 Viejas Grade Road Diegueno/Kumeyaay  
Alpine, CA 92001  
(619) 445-0385

Santa Ysabel Band of Diegueno Indians  
Johnny Hernandez, Spokesman  
PO Box 130 Diegueno  
Santa Ysabel, CA 92070  
brandietaylor@yahoo.com  
(760) 765-0845  
(760) 765-0320 Fax

Jamul Indian Village  
Kenneth Meza, Chairperson  
P.O. Box 612 Diegueno/Kumeyaay  
Jamul, CA 91935  
jamulrez@sctdv.net  
(619) 669-4785  
(619) 669-48178 - Fax

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This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009121003; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Imperial Beach Skateboard Park; located in the City of Imperial Beach; San Diego county, California.

Native American Contacts  
San Diego County  
January 4, 2010

Mesa Grande Band of Mission Indians  
Mark Romero, Chairperson  
P.O Box 270 Diegueno  
Santa Ysabel, CA 92070  
mesagrandeband@msn.com  
(760) 782-3818  
(760) 782-9092 Fax

Kumeyaay Cultural Repatriation Committee  
Steve Banegas, Spokesperson  
1095 Barona Road Diegueno/Kumeyaay  
Lakeside , CA 92040  
(619) 742-5587  
(619) 443-0681 FAX

Kumeyaay Cultural Heritage Preservation  
Paul Cuero  
36190 Church Road, Suite 5 Diegueno/ Kumeyaay  
Campo , CA 91906  
chairman@campo-nsn.gov  
(619) 478-9046  
(619) 478-9505  
(619) 478-5818 Fax

Clint Linton  
P.O. Box 507 Diegueno/Kumeyaay  
Santa Ysabel, CA 92070  
(760) 803-5694  
cjlinton73@aol.com

Kwaaymii Laguna Band of Mission Indians  
Carmen Lucas  
P.O. Box 775 Diegueno -  
Pine Valley , CA 91962  
(619) 709-4207

Inaja Band of Mission Indians  
Rebecca Osuna, Spokesperson  
309 S. Maple Street Diegueno  
Escondido , CA 92025  
(760) 737-7628  
(760) 747-8568 Fax

This list is current only as of the date of this document.

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STATE OF CALIFORNIA  
 GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH  
 STATE CLEARINGHOUSE AND PLANNING UNIT

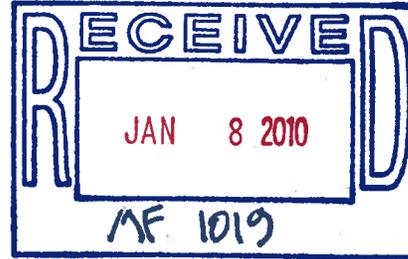


ARNOLD SCHWARZENEGGER  
 GOVERNOR

January 5, 2010

CYNTHIA BRYANT  
 DIRECTOR

Jim Nakagawa  
 City of Imperial Beach  
 825 Imperial Beach Boulevard  
 Imperial Beach, CA 91932



Subject: Imperial Beach Skateboard Park  
 SCH#: 2009121003

Dear Jim Nakagawa:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. The review period closed on January 4, 2010, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan  
 Acting Director, State Clearinghouse

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2009121003  
**Project Title** Imperial Beach Skateboard Park  
**Lead Agency** Imperial Beach, City of

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**Type** MND Mitigated Negative Declaration  
**Description** NOTE: Review Per Lead

This is a City-initiated application for Coastal Development Permit (CP 090023), Design Review (DRC 090024), Site Plan Review (SPR 090025), and Environmental Assessment (EIA 090026) for the installation of a 7100 sf skateboard park on a city-owned 7.98 acre parcel (APN 632-400-35-00) at 425 Imperial Beach Blvd (Sports Park) in the Public Facility (PF) Zone. This facility would be located south of the Sports Park Recreation Center, east of the basketball court, and west of Saint Mary's Episcopal Church.

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**Lead Agency Contact**

**Name** Jim Nakagawa  
**Agency** City of Imperial Beach  
**Phone** (619) 628-1355 **Fax**  
**email**  
**Address** 825 Imperial Beach Boulevard  
**City** Imperial Beach **State** CA **Zip** 91932

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**Project Location**

**County** San Diego  
**City** Imperial Beach  
**Region**  
**Lat / Long** 32° 34' 32" N / 117° 7' 24" W  
**Cross Streets** Imperial Beach Blvd and 4th St  
**Parcel No.** 632-400-35-00  
**Township** 18S **Range** 2W **Section** 30 **Base** SBB&M

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**Proximity to:**

**Highways** 75  
**Airports** Naval Outlying Landing Field  
**Railways** MTS  
**Waterways** Pacific Ocean, Tijuana River, SD Bay/Otay River  
**Schools** Sweetwater, South Bay  
**Land Use** Z: Public Facility (PF)

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**Project Issues** Aesthetic/Visual; Noise; Traffic/Circulation; Water Quality

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**Reviewing Agencies** Resources Agency; California Coastal Commission; Department of Fish and Game, Region 5; Department of Parks and Recreation; Department of Water Resources; Caltrans, District 11; Regional Water Quality Control Board, Region 9; Native American Heritage Commission; State Lands Commission

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**Date Received** 12/02/2009 **Start of Review** 12/02/2009 **End of Review** 01/04/2010

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**COMMUNITY DEVELOPMENT DEPARTMENT**  
825 IMPERIAL BEACH BOULEVARD • IMPERIAL BEACH, CALIFORNIA 91932

**MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) FOR  
THE IMPERIAL BEACH SKATEBOARD PARK PROJECT (MF 1019) AT  
425 IMPERIAL BEACH BOULEVARD**

A Mitigated Negative Declaration (MND) for the Imperial Beach Skateboard Park project (MF 1019) was prepared and released for public review from December 3, 2009 to January 4, 2010. It was also routed through the State Clearinghouse (#2009121003) for state agency review from December 2, 2009 to January 4, 2010 and distributed to the US Fish and Wildlife Service, the Coastal Commission, and the California Department of Parks and Recreation.

California Environmental Quality Act (CEQA) Guidelines Section 15074(d) requires that the lead agency adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.

The attached Mitigation Monitoring Checklist provides a mechanism for monitoring the mitigation measures in compliance with the MND. This checklist is organized by categories of environmental impacts (e.g. greenhouse gas emissions, and hydrology and water quality). Potential impacts identified in the MND are summarized for each impact area and the required mitigation measures are listed. The checklist identifies the implementation schedule, who is responsible for implementing the measure, monitoring mechanism, and required monitoring and reporting frequency.

**ADOPTION:**

This Mitigation Monitoring Reporting Program was adopted as a component of Resolution No. 2010-6836 by the Imperial Beach City Council on January 20, 2010.

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James Nakagawa, AICP  
Imperial Beach City Planner

Mitigation Measures	Monitoring Requirement	Responsible for Mitigation Implementation	Completion Requirement	Agency Responsible for Verification
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<p><b>Greenhouse Gas (GHG) Emissions:</b></p> <ol style="list-style-type: none"> <li>1. Contractors are encouraged and construction specifications for the project should recommend incorporating the following CARB Early Action measures:               <ol style="list-style-type: none"> <li>a. Procuring cement from California energy-efficient facilities that have converted to a low-carbon fuel-based production in order to reduce CO<sub>2</sub> emissions from fuel combustion, calcination, and electricity use.</li> <li>b. Utilizing blended cement materials such as limestone, fly ash, natural pozzolan and/or slag to replace some of the clinker in the production of Portland Cement..</li> </ol> </li> </ol> <p><b>Hydrology and Water Quality:</b></p> <ol style="list-style-type: none"> <li>2. The final design for and construction of the skate park shall demonstrate that runoff from the facility will be in compliance with the City's updated storm water regulations that are in effect at the time ministerial permits are issued and construction starts for the skate park project..</li> </ol>	<ol style="list-style-type: none"> <li>1. Develop plans and specifications that encourage the reduction of GHG emissions.</li> <li>2. Building and storm water plans review and construction inspection</li> </ol>	<ol style="list-style-type: none"> <li>1. Public Works Dept and contractor</li> <li>2. Public Works and Building Depts, Buccola Engineering and City Engineer</li> </ol>	<ol style="list-style-type: none"> <li>1. Construction of skate park utilizing cement from efficient plants and cement containing fly ash in mix.</li> <li>2. Installation of compliant storm water controls</li> </ol>	<ol style="list-style-type: none"> <li>1. Public Works and Building Depts.</li> <li>2. Building, City Engineer and Public Works Depts</li> </ol>
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**STAFF REPORT  
CITY OF IMPERIAL BEACH**

**TO:** HONORABLE MAYOR AND CITY COUNCIL/CHAIR AND MEMBERS OF THE REDEVELOPMENT AGENCY

**FROM:** GARY BROWN, CITY MANAGER/EXECUTIVE DIRECTOR

**MEETING DATE:** JANUARY 20, 2010

**ORIGINATING DEPT.:** COMMUNITY DEVELOPMENT DEPARTMENT  
GREG WADE, DIRECTOR *GW*

**SUBJECT:** PROPOSED SCOPE OF WORK TO COMPLETE THE TASKS ASSOCIATED WITH THE SECOND CONTRACT AMENDMENT WITH EDAW/AECOM IN THE AMOUNT OF \$50,000 FOR THE COMMERCIAL ZONING REVIEW

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**BACKGROUND:**

On January 17, 2007, the Redevelopment Agency and City Council authorized a contract with EDAW/AECOM to conduct a review of the City's Commercial Zones. On May 20, 2009, the Redevelopment Agency and City Council authorized a contract amendment in the amount of \$24,759 to provide additional funds to continue this extensive effort.

On July 16, 2009, with contract budget nearing depletion and in an effort to keep the project moving forward, the City Manager authorized a contract amendment not to exceed \$15,000. On October 7, 2009, the City Council and Redevelopment Agency adopted Resolution No. R0-09-196 which authorized a second contract amendment in the amount of \$50,000 to allow the consultant team (formerly EDAW now AECOM) to continue and complete their tasks associated with the Commercial Zoning Review.

At this time, the summary of project budget including all amendments is as follows:

<b>Original Budget</b>	<b>First Budget Amendment</b>	<b>City Manager Amendment</b>	<b>Second Budget Amendment</b>	<b>Total Budget</b>
\$250,000	\$24,759	\$15,000	\$50,000	\$339,759

Staff believes that this budget amount will be sufficient to complete the effort for the preparation of recommended amendments to the City's Commercial Zoning Regulations.

**DISCUSSION:**

When the City Council/Redevelopment Agency authorized the second contract amendment, staff was directed to return to them with a revised scope of work at a future date. Part of this revised scope was to detail the additional public outreach effort. At this time, staff is

recommending the following Scope of Work prepared by AECOM be considered:

**Scope Tasks:**

1. The AECOM team will attend up to 4 City Council Meetings to discuss details of Working Paper #2, and receive direction on future outreach efforts, if necessary (note 1<sup>st</sup> Council Meeting was held on November 19, 2009).
2. City staff will provide a memo, for public distribution, on the City Council's direction regarding Working Paper #2 and proposed recommendations.
3. Up to two members of the AECOM team will conduct a full day of stakeholder outreach with City staff. This day may include multiple individual meetings with key stakeholder groups to discuss the City Council's direction and any outstanding concerns. The day may end with a community meeting to discuss the revised council approach.
4. AECOM will summarize the outreach effort in a brief memo to City Staff.
5. City staff will meet with City Council Members and Mayor to discuss memo and outreach efforts.
6. AECOM will attend a City Council Meeting with City Staff to receive direction on finalizing zoning recommendations.
7. AECOM will refine and finalize the zoning recommendations provided in Working Paper #2, to be distributed for Public Review.
8. AECOM will attend a City Council meeting, where the Council will review the Revised Draft Amendment Package prior to distribution for public review.

**Budget Approximations:**

The following budget has been estimated to provide general cost assumptions. AECOM may adjust the breakdown, without exceeding the total fee, if project needs change:

1. Attendance at up to 6 Council Meetings = \$19,330
2. Outreach: One day of stakeholder meetings with evening community meeting = \$7,990
3. Document Revisions = \$14,680
4. Team Sub-consultants Budget = \$5,000
5. Expenses = \$3,000 for travel and workshop materials

The proposed Scope of Work is included as Attachment 1 to this staff report.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

This proposed Scope of Work is not subject to CEQA.

**FISCAL IMPACT:**

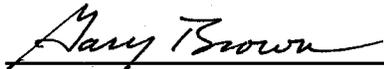
Redevelopment Agency (RDA) funds for the requested second contract amendment of \$50,000 have been budgeted from the RDA professional services budget and have been transferred into Capital Improvement Program (CIP) budget Project Number R05-203.

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council/Redevelopment Agency approve the revised Scope of Work as proposed in Attachment 1 for the Commercial Zoning Review.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department recommendation.



\_\_\_\_\_  
Gary Brown, City Manager

**Attachments:**

1. Proposed Scope of Work for the Second Contract Amendment





AECOM  
1420 Kettner Boulevard  
Suite 500  
San Diego, CA 92101  
www.aecom.com

ATTACHMENT 1  
619.233.1454 tel  
619.233.0952 fax

November 23, 2009

Mr. Gregory Wade, Director  
Community Development Department  
City of Imperial Beach  
825 Imperial Beach Blvd.  
Imperial Beach, CA 91932

Dear Mr. Wade,

**Re: Imperial Beach Commercial Zoning Review Project  
Scope of Work for Amendment to Contract Dated February 28, 2007**

The City Council approved an amendment to EDAW AECOM's scope and budget on October 7, 2009, for an additional fee of \$50,000. As a follow up to that action, and direction from more recent council meetings, we have developed a scope and cost breakdown for the amendment, and are requesting an amendment to the EDAW AECOM contract dated February 28, 2007 and amended June 23, 2009.

The scope identified in this agreement will replace the existing scope of work, as the existing budget allocations have been spent to date. Services under this agreement will be related to the tasks identified below, not-to-exceed the prior approved amount of \$50,000. Approximately \$3,200 of this budget has been spent to-date, including items described in Scope Task 1.

### **Scope Tasks**

1. The AECOM team will attend up to 4 City Council Meetings to discuss details of Working Paper #2, and receive direction on future outreach efforts, if necessary. (Note 1<sup>st</sup> Council Meeting was held on November 19, 2009.)
2. City staff will provide a memo, for public distribution, on the City Council's direction regarding Working Paper #2 and proposed recommendations.
3. Up to two members of the AECOM team will conduct a full day of stakeholder outreach with City staff. This day may include multiple individual meetings with key stakeholder groups to discuss the City Council's direction and any outstanding concerns. The day may end with a community meeting to discuss the revised council approach.
4. AECOM will summarize the outreach effort in a brief memo to City Staff.
5. City staff will meet with City Council Members and Mayor to discuss memo and outreach efforts.



Mr. Gregory Wade, Director  
Community Development Department  
November 24, 2009  
Page 2

6. AECOM will attend a City Council Meeting with City Staff to receive direction on finalizing zoning recommendations.
7. AECOM will refine and finalize the zoning recommendations provided in Working Paper #2, to be distributed for Public Review.
8. AECOM will attend a City Council meeting, where the Council will review the Revised Draft Amendment Package prior to distribution for public review.

### **Budget Approximations**

The following budget has been estimated to provide general cost assumptions. AECOM may adjust the breakdown, without exceeding the total fee, if project needs change:

1. Attendance at up to 6 Council Meetings = \$19,330
2. Outreach: One day of stakeholder meetings with evening community meeting = \$7,990
3. Document Revisions = \$14,680
4. Team Sub-consultants Budget = \$5,000
5. Expenses = \$3,000 for travel and workshop materials.

### **General Assumptions**

- All meetings will be attended by one to two members of the AECOM team, as the budget permits. The outreach meetings will be attended by up to two AECOM team members. The community meeting will be attended by one senior member of the AECOM team.
- Attendance at, and preparation for, hearings is not included in this proposal.
- City staff will be responsible for logistics related to the stakeholder meetings and community meeting, including scheduling, advertisements and noticing, facility arrangements, set-up, and refreshments.
- Scope of specific outreach effort may be modified after subsequent City Council Meetings, within the same level of effort. The assumptions included in item 3, identify a maximum effort, in the interest of efficiency and cost savings to the City.

Mr. Gregory Wade, Director  
Community Development Department  
November 24, 2009  
Page 3

Thank you for considering this request and please call me with any questions. You can confirm your agreement to this amendment by signing this letter and returning it to us.

Yours sincerely,



Joan Isaacson  
Project Director



Bobbette Biddulph  
Principal

My signature below confirms our agreement to the Scope of Work for the approved Budget Amendment for Imperial Beach Commercial Zoning Review Project and authorizes EDAW to proceed.

---

Mr. Gregory Wade, Director  
Community Development Department

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Date





**STAFF REPORT  
CITY OF IMPERIAL BEACH**

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
**FROM:** GARY BROWN, CITY MANAGER

**MEETING DATE:** JANUARY 20, 2010  
**ORIGINATING DEPT.:** JACQUELINE M. HALD, CITY CLERK *JMH*

**SUBJECT:** PORT COMMISSIONER APPOINTMENT PROCESS

**BACKGROUND:**

The San Diego Unified Port District is governed by a seven-member Board of Port Commissioners; one commissioner is appointed by each of the city councils of Chula Vista, Coronado, Imperial Beach and National City, and three commissioners are appointed by the San Diego City Council. The term of each commissioner is four years. On May 22, 2002 Michael Bixler was appointed to the Port Commission to fill an unscheduled vacancy with a term that expired on January 3, 2003. He was reappointed by the City Council on January 6, 2003 to serve a four-year term that expired on January 2, 2007. On July 19, 2006 he was reappointed to serve a second four-year term that will expire on January 2, 2011.

**DISCUSSION**

Pursuant to Section 2.18.010.C of the Imperial Beach Municipal Code, appointments to all commissions, boards and committees, except the planning commission and the personnel board, shall be made by the Mayor, with the approval of the City Council. Staff recommends approval of the attached Port Commissioner Position Specifications and the following process and schedule to provide sufficient time to recruit desirable candidates, hold interviews, make the appointment and allow the appointee to meet with the current commissioner, attend Port District Commission meetings, and familiarize him/herself with the issues prior to taking over the position in January 2011.

Post position announcement at City Hall:	September 1, 2010
Advertise in the IB Eagle & Times:	September 2, 9, 16, 23, and 30, 2010
Application due by 5:30 p.m.:	October 7, 2010
Mayor conduct interviews:	October 11-21, 2010
Appointment of new Port Commissioner:	November 3, 2010

Staff further recommends approval of the attached revised application used for all commission, board, and committee applicants.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

Not a project as defined by CEQA.

**FISCAL IMPACT:**

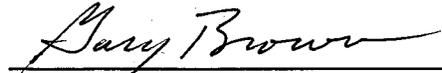
None.

**DEPARTMENT RECOMMENDATION:**

That the City Council approve the Port Commissioner Position Specifications, the process and schedule as presented and the revised application used for all commission, board, and committee applicants.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department recommendation.

  
\_\_\_\_\_  
Gary Brown, City Manager

Attachments:

1. Port Commissioner Position Specifications
2. Revised application used for all commission, board, and committee applicants

**PORT COMMISSIONER POSITION SPECIFICATIONS**

In addition to being guided by the Powers and Functions of the Board of Commissioners, the Imperial Beach Port Commissioner, appointed by the City Council shall:

1. Take direction from the City Council as to all San Diego Unified Port District matters of direct interest to the citizens of the City of Imperial Beach;
2. Communicate to the City Council and staff all San Diego Unified Port District matters of possible interest to Imperial Beach, and where deemed of particular interest, shall do so at a public meeting as determined by the City Council;
3. Serve as advisor to the Imperial Beach City Council for all San Diego Unified Port District matters;
4. Maintain awareness of all planning for the development and redevelopment of both Imperial Beach and the San Diego Unified Port District;
5. Maintain an active, rather than passive, role in the business of the San Diego Unified Port District and their day-to-day operations; and
6. That the Imperial Beach Port Commissioner be willing to serve at the pleasure of the majority of the City Council.

**Expected Typical Tasks**

1. Coordinate and provide assistance in meshing the several master plans that make up planning for the San Diego Unified Port District;
2. Prepare and submit to the Imperial Beach City Council matters requiring legislative action on all matters interfacing with the City of Imperial Beach and the San Diego Unified Port District;
3. Submit timely reports to the Imperial Beach City Council on any San Diego Unified Port District planning matter deemed to be of importance to Imperial Beach;
4. Public report to the Imperial Beach City Council at its regular meetings on the first and third Wednesday of each month;
5. Counsel with and advise City of Imperial Beach commissioners, boards, and committees, as requested by the City Council, on Unified Port matters of general applicability;
6. Represent the interests and perspective of the City of Imperial Beach in all meetings and public functions with other governmental agencies, private groups and organizations on issues affecting Imperial Beach relative to Port District matters;
7. Prepare oral or written summary briefs for the Imperial Beach City Council, relative to matters at the Port District having impact to Imperial Beach;
8. Ensure the public posting of the Port District weekly agenda;
9. Be available to attend all Port District meetings and inform the City Council when unable to do so;
10. File Statement of Economic Interests with the City Clerk

**Standards and Qualifications**

1. Resident and registered voter in the City of Imperial Beach
2. Experience:
  - a. Administrative experience and coordination;
3. Knowledge, Skills, and Abilities:
  - a. Ability to conduct meetings with citizens groups and organizations;
  - b. Ability to make clear and concise presentation to the community, the City Council, and other jurisdictions;
  - c. Ability to work with diverse staff and public entities;
  - d. Personality, attitude and temperament to strive constantly for increased communications and maintain cooperative working relationships with internal and external agencies.





**CITY OF IMPERIAL BEACH, CALIFORNIA  
APPLICATION FOR APPOINTMENT TO COMMISSIONS, BOARDS & COMMITTEES**

The purpose of this application is to provide the Mayor and members of the City Council with background information on persons who wish to serve on a commission, board, or committee of the City. Persons appointed must be residents of the City of Imperial Beach.

**FULL NAME:** \_\_\_\_\_  
**HOME ADDRESS:** \_\_\_\_\_  
**TELEPHONE:** (Home) \_\_\_\_\_ (Business) \_\_\_\_\_ (Cell) \_\_\_\_\_  
**E-MAIL ADDRESS:** \_\_\_\_\_

**CHOICE OF COMMISSION, BOARD, OR COMMITTEE:**  Design Review Board  
 Tidelands Advisory Committee  
 Port Commission

**EDUCATION:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OCCUPATION/PROFESSION:**  
\_\_\_\_\_  
\_\_\_\_\_

**EMPLOYMENT:**  
\_\_\_\_\_  
\_\_\_\_\_

**MEMBERSHIP IN CIVIC ORGANIZATIONS, SERVICE CLUBS, ETC.:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ACHIEVEMENTS AND AWARDS (CIVIC, SCHOLASTIC, OR OTHER):**

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**QUALIFICATIONS OR TRAINING YOU FEEL YOU POSSESS THAT WILL AID YOU IN SERVING ON THE COMMISSION, BOARD, OR COMMITTEE, AND THE PEOPLE OF IMPERIAL BEACH:**

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**STATE BRIEFLY WHY YOU ARE INTERESTED IN SERVING:**

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**I understand that my application will be kept on file for one year from the date it is submitted, and that I may be considered for appointment to fill any vacancies, either scheduled or unscheduled, during that time.**

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**DATE**

**Please complete and return this application (and any additional sheets if necessary) to:**

**Office of the City Clerk  
City of Imperial Beach  
825 Imperial Beach Boulevard  
Imperial Beach, CA 91932  
Phone: (619) 423-8616**



**STAFF REPORT  
CITY OF IMPERIAL BEACH**

**TO:** HONORABLE MAYOR AND CITY COUNCIL/CHAIR AND MEMBERS OF THE REDEVELOPMENT AGENCY

**FROM:** GARY BROWN, CITY MANAGER/EXECUTIVE DIRECTOR

**MEETING DATE:** JANUARY 20, 2010 – TIME SPECIFIC FOR 7:00 PM

**ORIGINATING DEPT.:** COMMUNITY DEVELOPMENT DEPARTMENT  
GREG WADE, DIRECTOR *GW*

**SUBJECT:** COMMERCIAL ZONING REVIEW

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**BACKGROUND:**

On June 24, 2009, a combined City Council and Design Review Board (DRB) workshop was held to present the results and recommendations of the City's Commercial Zoning Review. At this workshop, the consultant team headed by EDAW/AECOM Inc. (EDAW), presented specific recommendations for zoning amendments based upon the review of the City's commercial zones. During the workshop, concerns were raised about the extensive amount of information provided and about some of the specific recommendations being presented, particularly those involving proposed increases to building height and residential densities. As such, the City Council and Design Review Board (DRB) requested that additional workshops be conducted to go over the information in more detail and to allow for additional input from the City Council, DRB and the public.

On July 28, 2009, another City Council/DRB Workshop was held. This workshop was attended by over 70 members of the community many of whom raised concerns about the Commercial Zoning Review and, more specifically, about the process for reviewing the potential draft zoning amendments to the City's Commercial Zoning and General Plan.

On September 23, 2009, staff presented to the City Council options for the review process moving forward for this effort. The City Council directed staff to schedule a special meeting at which the Council could discuss the Commercial Zoning Review recommendations prior to establishing a community outreach and review process.

On October 26, 2009, the City Council held a Special Meeting to discuss the Commercial Zoning Review recommendations. At beginning of this meeting, the City Council voted to eliminate the following potential zoning amendment recommendations from consideration:

1. A 60-foot height overlay zone along Palm Avenue from Emory westward to Rainbow Drive.
2. Minimum residential density requirements.
3. A 40-foot height limit on the east side of Seacoast Drive and along Old Palm Avenue from Seacoast Drive to 3<sup>rd</sup> Street, subject to incentive criteria.
4. Elimination of the Mixed-Use Overlay Zone (MU-2 Zone) west of Ocean Lane.

After discussion, a majority of the City Council voted to consider and discuss the possibility of allowing building of up to 35 feet, not 36 feet as proposed in the potential amendments, on the east side of Seacoast Drive and along Old Palm. This increased height would be permitted only if a proposed project met specific development incentive criteria. The development incentives were one of the items identified by the City Council to be discussed in more detail at the meeting on November 18, 2009.

On November 18, 2009, staff and the consultant team made another presentation to the City Council on the Commercial Zoning Review recommendations. While the City Council had anticipated discussing the parking requirements, performance-based incentives, floor area ratios (FAR's), setbacks and stepbacks, and maximum residential densities, due to time constraints and the depth of discussion, the City Council was only able to cover the parking requirements. The City Council was generally supportive of the proposed recommended parking amendments which included:

- 1) Reducing the overall parking ratios/requirements for commercial development
- 2) Allowing a 25% parking reduction for vertical (taller than one story) development
- 3) Allowing a parking waiver for commercial uses of less than 1,000 square feet
- 4) Allowing a shared parking reduction, subject to a project-specific study

The City Council also suggested that some additional study of existing parking might be necessary, particularly along Seacoast Drive and Old Palm Avenue, in order to support the recommended parking regulation amendments. This will be particularly important as any amendments approved by the City Council must then be certified and approved by the Coastal Commission.

#### **DISCUSSION:**

On Wednesday, December 16, 2009, the City Council continued its focus discussions on the following items:

- Maximum Residential Densities
- Setbacks and step-backs
- Floor Area Ratios (FARs)
- Performance-based incentives

Staff and a member of the consultant team presented an overview of these items and responded to questions and comments from the City Council. During this discussion, questions were asked and comments were made regarding the proposed recommendations, including those pertaining to maximum residential densities, floor area ratio (FAR), and the amount of commercial square footage generated with the proposed recommendations as compared to the existing zoning. The City Council elected to continue this focus discussion and provide more formal recommendations at their meeting on January 20, 2010.

At the meeting on January 20, 2010, staff will provide a concise overview of the recommendations for which specific recommendations are needed and will also be available to answer any additional questions. It should also be noted that an additional focus discussion is recommended to review the recommended Land Use Table and proposed Definitions. Staff recommends that, at the January 20<sup>th</sup> meeting, the City Council schedule this additional focus discussion for one of the upcoming February meetings.

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

This discussion of the recommended zoning amendments is not, in itself, subject to CEQA.

**FISCAL IMPACT:**

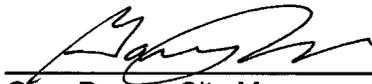
A contract amendment for additional services to complete this Commercial Zoning Review was approved by the City Council/Redevelopment Agency on September 23, 2009. A proposed Scope of Work for this contract amendment will be presented to the City Council for consideration on January 20, 2010, as a separate agenda item.

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council continue its discussion and provide direction and input on the specific recommendations presented. Staff further recommends that the City Council schedule the proposed Land Use Table and Definitions for consideration and discussion at one of the upcoming City Council meetings in February and provide any further specific direction on the next steps for consideration of the proposed recommendations.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department recommendation.



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Gary Brown, City Manager





**STAFF REPORT  
CITY OF IMPERIAL BEACH**

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** GARY BROWN, CITY MANAGER

**MEETING DATE:** JANUARY 20, 2010

**ORIGINATING DEPT.:** COMMUNITY DEVELOPMENT  
GREG WADE, DIRECTOR *GW*  
ELIZABETH CUMMING, ASSISTANT PROJECT MANAGER

**SUBJECT:** PROJECT PROPOSAL FOR THE FISCAL YEAR 2009-2010  
COMMUNITY DEVELOPMENT BLOCK GRANT - RECOVERY  
(CDBG-R) PROGRAM

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**BACKGROUND:**

The U.S. Department of Housing and Urban Development (HUD) recently announced additional funding for the Community Development Block Grant (CDBG) program under the American Recovery and Reinvestment Act of 2009 (Recovery Act). The County of San Diego's Department of Housing and Community Development allocates the funds to participating cities based on a formula that considers factors such as population, income level, and overcrowded housing.

As a CDBG participating city, the County of San Diego Department of Housing and Community Development is giving us an opportunity to submit a proposed project for CDBG-R funding. The project must be "shovel ready" or one that can be under contract within 120 days from receipt of funds. Funds will be awarded in the spring/summer of 2010 and should have a project completion goal of 12 months or less. The City of Imperial Beach has been allocated \$63,170.

**DISCUSSION:**

In January 2009 staff submitted a CDBG-Recovery Act Application for the Sports Park Restroom Remodel. The application was rejected because the Recovery Funds were not to be used for projects that involved parks and recreation. The County of San Diego Department of Housing and Community Development (HCD) and city staff then attempted to combine the Recovery funds of \$63,170 with half of the FY 2009-2010 CDBG funds to construct the Civic Center Cross Walk Project and use the remaining FY 2009-2010 CDBG funds for the Sports Park Restroom Remodel. However, for a variety of reasons, staff concluded that this plan also was not feasible. San Diego County HCD and city staff concluded that the City should fully fund the Civic Center Cross Walk Project with FY 2009-2010 funds by re-allocating the funds from the Sports Park Improvement project (63,170) to the Civic Center Cross Walk Project (\$72,929).

The allocation of \$63,170 from the CDBG Special Recovery Act Funding, therefore, is still available to the City. A list of projects was submitted to the County Department of Housing and Community Development as potential CDBG-R projects. The projects proposed included the

Girls and Boys Club, the Sports Park Recreation Facility Music Program, Public Safety/Fire Department Expenditures, and the Imperial Beach Library. The San Diego Department of Housing and Community Development reviewed the proposals and concluded that none of them met all the criteria for Recovery Funds eligibility. HCD staff did, however, advise us that ADA Ramps would be an acceptable project and requested that staff submit an application for such a project.

Based on Staff's evaluation, the ADA Ramps Project would provide a greater benefit to and enhancement of the livability of the entire community. For this reason, staff recommends allocating all of the FY 2009-2010 CDBG-R funds to this project.

**ENVIRONMENTAL DETERMINATION:**

Not a project as defined by CEQA.

**FISCAL IMPACT:**

The City of Imperial Beach has been allocated CDBG- R funds in the amount of approximately \$63,170. Staff anticipates that the installation of ADA Ramps will not exceed that amount.

**DEPARTMENT RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution No. 2010-6840 approving the submittal of CDBG-R application for ADA Ramps and authorizing the City Manager to execute the appropriate agreement with the County of San Diego.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department recommendation.

  
\_\_\_\_\_  
Gary Brown, City Manager

Attachments:

1. Resolution No. 2010-6840

**RESOLUTION NO. 2010-6840**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, REQUESTING ALLOCATION OF THE FISCAL YEAR 2009-2010 COMMUNITY DEVELOPMENT BLOCK GRANT – RECOVERY (R) FUNDS TO AN ADA RAMP PROJECT**

**WHEREAS**, the City Council of the City of Imperial Beach has considered two different project proposals for the Fiscal Year 2009-2010 Community Development Block Grant - R ("CDBG") Program; and

**WHEREAS**, the allocation of \$63,170 from the CDBG-R Funding is still available to the City; and

**WHEREAS**, City staff has consulted with the Department of Housing and Community Development to determine what project would be acceptable for CDBG-R funding; and

**WHEREAS**, HCD Staff advised City staff that ADA Ramps would be an acceptable project; and

**WHEREAS**, City staff has identified a number of ADA Ramp projects in the City, and this is a project that would benefit and enhance the livability of the community; and

**WHEREAS**, the ADA Ramps will benefit and enhance the livability of the community by improving the accessibility of the City's public infrastructure; and

**WHEREAS**, the ADA Ramps Project is a project that will achieve an intended outcome of the CDBG-R program.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Imperial Beach that it desires to utilize its 2009-2010 CDBG-R Funds for the ADA Ramp project.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its regular meeting held on the 20<sup>th</sup> day of January 2010, by the following roll call vote:

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>
<b>DISQUALIFIED:</b>	<b>COUNCILMEMBERS:</b>

*James C. Janney*  

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**JAMES C. JANNEY, MAYOR**

**ATTEST:**

*Jacqueline M. Hald*  

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**JACQUELINE M. HALD, CMC**  
**CITY CLERK**

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Resolution No. 2009-6824 – A Resolution of the City Council of the City of Imperial Beach, California, REQUESTING ALLOCATION OF THE FISCAL YEAR 2009-2010 COMMUNITY DEVELOPMENT BLOCK GRANT – RECOVERY (R) FUNDS TO AN ADA RAMP PROJECT.

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
DATE



Imperial Beach  
Redevelopment Agency

AGENDA ITEM NO. 6.5

**STAFF REPORT  
IMPERIAL BEACH REDEVELOPMENT AGENCY**

**TO: CHAIR AND MEMBERS OF THE REDEVELOPMENT AGENCY**

**FROM: GARY BROWN, EXECUTIVE DIRECTOR**

**MEETING DATE: JANUARY 20, 2010**

**ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT  
GREG WADE, DIRECTOR  
GERARD SELBY, REDEVELOPMENT COORDINATOR**

**SUBJECT: ADOPTION OF RESOLUTION NO. R-10-203 AND  
RESOLUTION NO. R-10-204 - RESOLUTION OF  
NECESSITY OF THE IMPERIAL BEACH  
REDEVELOPMENT AGENCY PERTAINING TO THE  
ACQUISITION OF CERTAIN PROPERTY OR INTEREST  
IN PROPERTY, LEASEHOLD INTEREST IN PROPERTY,  
IF ANY, AND LOSS OF GOODWILL PURSUANT TO  
SECTION 1263.510 OF THE CODE OF CIVIL  
PROCEDURE, IF ANY FOR USE BY THE AGENCY IN  
THE DEVELOPMENT OF 9<sup>TH</sup> & PALM REDEVELOPMENT  
PROJECT IN COMPLIANCE WITH THE REQUIREMENTS  
OF SECTION 1245.230 OF THE CODE OF CIVIL  
PROCEDURE OF THE STATE OF CALIFORNIA**

**BACKGROUND**

In March 2009, the Imperial Beach Redevelopment Agency ("Agency") purchased the Miracle Shopping Center. In February 2009, the Agency issued a Request for Qualifications/Proposals ("RFQ/P") for a Real Estate Development Opportunity for the site and selected a developer to redevelop the Development Site. The proposed development will consist of approximately 45,300 square feet of four single-story retail structures and 271 parking spaces. The redevelopment of the site is expected to commence within six months of the acquisition of the property or interest associated with this action.

The redevelopment will cause the displacement of businesses located in the Miracle Shopping Center. On June 17, 2009, the Agency approved a relocation plan for the 9<sup>th</sup> & Palm Redevelopment Project and started the relocation process with the existing businesses. The Agency has successfully relocated several of the businesses. The Agency and the relocation consultant have made repeated attempts to relocate the businesses located at 771 and 803 Palm Avenue, Wilde Sydes Boutique and Inner Visions. The purpose of this staff report is to provide a summary of the relocation efforts and a recommendation of how to proceed.

## DISCUSSION

The businesses referred to are located at 771 and 803 Palm Avenue, Wilde Sydes Boutique and Inner Visions ("Businesses"), respectively. Wilde Sydes Boutique is owned by James Sides and Inner Visions is owned by Deborah Sides. Both businesses have been contacted by the relocation consultant and provided the relocation plan and estimate of their relocation benefits and Fixture & Equipment. In November 2009, the Agency received an email that had been sent to the relocation consultant. The Businesses presented a "settlement offer" to the Agency of **ONE MILLION DOLLARS (\$1,000,000)**. In December 2009, the Agency responded to the Businesses' settlement offer with a letter that outlined the estimated relocation benefits and payment for Fixtures and Equipment that they were entitled to receive (Exhibit A). The combined offer for the Businesses was \$63,357.00. In December 2009, the Agency received a response from the Businesses. The Wilde Sydes Boutique requested **THREE HUNDRED AND FIFTEEN THOUSAND FOUR HUNDRED AND FORTY ONE DOLLARS AND FORTY-SEVEN CENTS (\$315,441.47)** and Inner Visions requested **ONE MILLION ONE HUNDRED AND FIFTEEN THOUSAND NINE HUNDRED AND FORTY DOLLARS AND EIGHTY-FOUR CENTS (\$1,115,940.84)**.

The Agency is legally required to provide relocation benefits and payment for Fixtures and Equipment, leasehold interest in the property, if any, and Loss of Goodwill compensation. However, relocation benefits are provided after the relocated businesses have provided documentation of expenditures. Payment for Fixtures and Equipment is for the business owner's personal property that cannot be relocated. The California Eminent Domain Law provides for the compensation for goodwill loss only if the business owner proves that the following four conditions have been met:

- The loss is caused by the taking of the property or injury to the property from which the business operates;
- The loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a prudent person would take and adopt in preserving the goodwill;
- Compensation for the loss is not included in payments made under relocation assistance programs; and
- Compensation for the loss is not duplicated in any other compensation awarded to the business owner.

Therefore, a business owner must prove that the condemnation was the cause for any loss of value and that every effort was made to mitigate the loss. However, it should be noted that not all businesses possess goodwill value. In order to receive payment for loss of goodwill, a business must prove that it possessed goodwill at the original business location. A business cannot lose more goodwill than it possessed at the original business location.

Although at this time staff does not believe that the Businesses will suffer a loss of Goodwill and therefore are not entitled to receive that compensation, each business owner is allowed the opportunity to prove in a condemnation proceeding that the business has suffered a loss of goodwill. Additionally, both business owners have indicated they may have a right to a

leasehold interest in the property. The lease for Wylde Sides Boutique is expired as of December 31, 2005 and the lease for Inner Visions is scheduled to expire on February 28, 2010. Staff does not believe that the Businesses have a claim for loss of a leasehold interest in the property, however, each business owner is also allowed the opportunity to prove in a condemnation proceeding that it has suffered a loss in a leasehold interest in the property.

Staff has discussed with Ms. Sides the Agency's requirement to provide relocation benefits and payment for Fixtures and Equipment and how they are estimated. Staff, together with its relocation consultant, has also offered to re-appraise the Fixtures and Equipment, has explained that the relocation benefits are estimates and the final benefit may be higher or lower than the estimate, and has explained that any goodwill compensation is based on more than just gross sales.

Due to the enormous differences between the Agency's estimates of benefits due to the Businesses and the Businesses' requested benefits/compensation, and given the need to proceed in a timely manner with the redevelopment of the site, staff sought direction from the Agency Board. Based on the direction provided by the Agency, staff notified the Businesses in writing of the Agency's intent to adopt a Resolution of Necessity to acquire certain interest in property by Eminent Domain (Exhibit B). The notification was drafted and approved by the Agency's General Counsel and delivered pursuant to California Redevelopment Law. The letter informed the businesses of the method and time period to respond to the notification and the hearing date for the Agency's action.

The Agency must adopt a Resolution of Necessity before an eminent domain proceeding can be commenced. Within six months of the adoption of the Resolution of Necessity, the Agency will commence eminent domain proceedings in the Superior Court of San Diego County. In that proceeding, the Court will determine the amount of compensation, if any, to which the Businesses are entitled.

### **ENVIRONMENTAL IMPACT**

This action is provided for and included in the Final Environmental Impact Report for the Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project certified by the City Council of the City of Imperial Beach on January 17, 1996, by adoption of Resolution No. 96-4569.

### **FISCAL IMPACT**

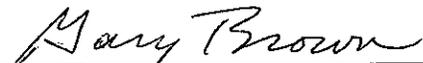
Funds for this action are budgeted and available in the Fiscal Year 2009-2010 Budget. The eminent domain proceedings in the Superior Court of San Diego County will determine the amount of additional compensation, if any, the Businesses are entitled to receive.

### **DEPARTMENT RECOMMENDATION**

Staff recommends that the Redevelopment Agency adopt Resolutions No. R-10-203 and R-10-204.

### **EXECUTIVE DIRECTOR'S RECOMMENDATION**

Approve Department recommendation.

  
\_\_\_\_\_  
Gary Brown, Executive Director

Attachments:

1. Exhibit A
2. Exhibit B
3. Resolution No. R-10-203
4. Resolution No. R-10-204

ATTACHMENT 1

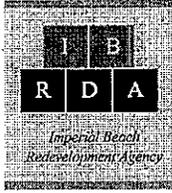


EXHIBIT A

Via First-Class Mail

December 2, 2009

Ms. Debbie Sydes  
803 Palm Avenue  
Imperial Beach, CA 91932

**ACQUISITION OF PROPERTY INTERESTS IN THE SUBJECT PROPERTIES:  
771 PALM AVENUE AND 803 PALM AVENUE, IMPERIAL BEACH, CA 91932**

Dear Ms. Sydes:

The Imperial Beach Redevelopment Agency ("Agency") presents this offer to acquire the property interests in the subject properties referenced above. The acquisition includes all furniture, fixtures and equipment together with relocation assistance benefits pursuant to the California Relocation Assistance Law, California Government Code sections 7260 et seq. and the Imperial Beach Redevelopment Agency's Rules and Regulations for the Implementation of California Relocation Assistance Law (adopted 2001) (hereinafter together referred to as "Relocation Law"), located at 771 Palm Avenue (Assessor Parcel Number: 626-250-05) (hereinafter "Wylde Sydes Boutique Property") and 803 Palm Avenue (Assessor Parcel Number: 626-250-06) (hereinafter "Inner Visions Property"). The Agency and the recipient of this Offer Letter each acknowledge that this Offer Letter is in no way intended to be a complete or definitive statement of all the terms and conditions of the proposed transaction and that the negotiation and execution of a satisfactory Purchase Agreement will be required. Further, no commitment to acquire the property interests in the Wylde Sydes Boutique Property or the Inner Visions Property can be made by staff until after the Redevelopment Agency Board has held a hearing and elected to adopt a resolution of necessity. (Enclosed with this correspondence is an informational booklet explaining the condemnation process and your rights under Eminent Domain Law.)

The Agency's offer for the furniture, fixtures and equipment is based on a valuation appraisal performed on May 13, 2009, by Crockett & Associates, Ltd. The appraiser commissioned by the Agency to appraise the furniture, fixtures and equipment and the relocation assistance benefits is based on the Relocation Law as estimated by Epic Land Solutions, Inc., the relocation consulting firm commissioned by the Agency to assist with relocating tenants of the subject properties referenced above. The basis of the offer is further described in the following paragraph and attached Exhibits "A.1," "A.2," "A.3," and "A.4." You have the right to have the Subject Property appraised by an independent appraiser, at the Agency's expense, not to exceed \$5,000.

The purchase price for the improvements and relocation assistance is as follows:

1. **Offer for Improvements Pertaining to Realty**

An appraisal of fixtures, furniture and equipment (the "FF&E") was performed by Crockett & Associates, Ltd. on May 13, 2009. This offer is presented in settlement of the acquisition of FF&E pertaining to the both the Wylde Sydes Boutique Property and the Inner Visions Property. This offer is subject to final verification as to the owner of the FF&E and funds will not be disbursed until said verification is provided to the Agency. The Agency proposes to acquire the FF&E to each property as follows:

<b>\$10,852.00</b>	<b>Market Value of FF&amp;E Pertaining to Wylde Sydes Boutique Property</b>
<b>\$2,505.00</b>	<b>Market Value of FF&amp;E Pertaining to Inner Visions Property</b>

2. **Relocation Assistance Benefits**

The Relocation Law allows, with the appropriate and proper documentation, for expenses for searching for a replacement location (not to exceed \$1,000), expenses to relocate and reestablish at a new location (not to exceed \$10,000), and moving expenses (hereinafter referred to as "Actual Relocation Benefits"). In the alternative, if the Agency is satisfied that the business cannot relocate without substantial loss of patronage and is not part of a commercial enterprise with at least one other establishment not being acquired, a business may elect to receive a lump sum payment of \$1,000-\$20,000 (hereinafter referred to as "In Lieu Relocation Benefits").

<b>\$25,000.00</b>	<b>Estimated Actual Relocation Benefits to Wylde Sydes Boutique Property</b>
<b>\$25,000.00</b>	<b>Estimated Actual Relocation Benefits to Inner Visions Property</b>

3. **Combined Offers**

The total combined offer to acquire the improvements pertaining to the each property, if determined that ownership of all the FF&E is to Wylde Sydes Boutique and to Inner Visions, and relocation assistance, upon proper documentation, for both properties is for the sum of:

**\$63,357.00 Combined Offer**

If this offer is acceptable in total or in part, please sign and date below and we will immediately prepare for your review a draft Purchase and Sale Agreement in accordance with this letter (including customary provisions). Additionally, the Purchase and Sale Agreement would provide that the Agency agrees to pay escrow costs and would close escrow no later than thirty days after acceptance of the Agency's offer and upon completion of the following, among others as customary, conditions:

Debbie Sydes  
December 2, 2009  
Page 3

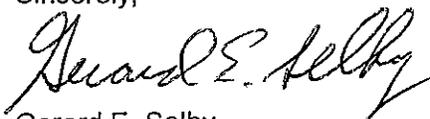
1. The title shall be free of liens, encumbrances, restrictions, rights, and conditions other than those that would not adversely affect the use of the property.

2. The Purchase of the FF&E is approved by the Board of Directors of the Agency.

Please note that this Offer Letter is intended to be non-binding and that no contract for sale shall be created until the full execution of a definitive Purchase and Sale Agreement. Please return the executed offer letter to Gerard E. Selby in the enclosed self addressed, stamped envelope. Please direct all questions to Gerard E. Selby at (619) 424-2226.

I would appreciate knowing of your acceptance or rejection of the offer no later than December 11, 2009, by 4:00 P.M.

Sincerely,



Gerard E. Selby  
Redevelopment Coordinator

Enclosures

AGREED TO AND ACCEPTED BY:

Seller Signature: \_\_\_\_\_

(Print Name): \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

## Exhibit A.1

### SUMMARY STATEMENT

The value of the improvements located at 771 Palm Avenue and 803 Palm Avenue is based upon a market value appraisal prepared by Crockett & Associates, Ltd., appraisal firms commissioned by the Imperial Beach Redevelopment Agency ("Agency") in accordance with accepted appraisal procedures. The valuation of your property is based upon either a market approach to value, or economic life analysis. The market approach is based on the cost of an identical replacement or nearest equivalent from the used equipment market. This information is obtained from retail suppliers, dealers in used equipment and publications which advertise used equipment. Economic life analysis (straight-line depreciation) considers the normal economic life of the asset and depreciates the asset in a uniform manner over that period. Economic life analysis is used on those items where there is no used market construction, signs, furnishings and leasehold improvements.

As summarized in the appraisal, before arriving at a conclusion of value, the appraiser conducted an investigation in order to obtain the information necessary. The investigation generally includes an inspection of the property and improvements, and review of the improvements, and a study of the highest and best use to which the property can be put.

The offer is the full amount believed by the Agency to be just compensation for your property as represented in the appraisal dated May 13, 2009, and is not less than the highest approved appraisal of the Fair Market Value of the property. Any decreases or increases in the Fair Market Value of the real property, if any, to be acquired prior to the date of the valuation caused by the public improvements or project for which the property is to be acquired, or by the likelihood that the property would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of the owner, has been disregarded by the Agency and its appraiser in making their determination of the Fair Market Value of such property.

FAIR MARKET VALUE, as used in the appraisal, is "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for doing so, nor obliged to sell, and a buyer, being ready, willing and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available." (Section 1263.320 Code of Civil Procedure)

***The determination of just compensation does not reflect any consideration of or allowance for relocation assistance and payments to which you may be entitled to receive under applicable State or Federal Law or of the Agency's agreement to pay certain settlement costs.***

This summary of the basis of the amount offered as just compensation is presented in compliance with State and where applicable Federal Law.

In the event you are the owner of a business conducted on the property being acquired by the Agency, you may be entitled to compensation for loss of goodwill, if any, if you are able to make a showing of such loss pursuant to the requirements of California Code of Civil Procedure Section 1263.510. For your information, Section 1263.510 is reprinted below in its entirety.

- (a) The owner of a business conducted on the property taken, or on the remainder if such property is part of a larger parcel, shall be compensated for loss of goodwill if the owner proves all of the following:
  - (1) The loss is caused by the taking of the property or the injury to the remainder.
  - (2) The loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill.
  - (3) Compensation for the loss will not be included in payments under Section 7262 of the Government Code.
  - (4) Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner.
- (b) Within the meaning of this article, "goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.
- (c) If the public entity and the owner enter into a leaseback agreement pursuant to Section 1263.615, the following shall apply:
  - (1) No additional goodwill shall accrue during the lease.
  - (2) The entering of a leaseback agreement shall not be a factor in determining goodwill. Any liability for goodwill shall be established and paid at the time of acquisition of the property by eminent domain or subsequent to notice that the property may be taken by eminent domain.

Exhibit A.2

PROPERTY INFORMATION

<b>PROPERTY INFORMATION</b>	
Property Owner:	Imperial Beach Redevelopment Agency
Item:	Commercial Units
Location:	771 Palm Avenue and 803 Palm Avenue, Imperial Beach, CA
Description:	Furniture, fixtures and equipment located in each property.
Total Value In Place:	Property Value: \$10,852.00 (Wylde Sydes Boutique Property) and \$2,505.00 (Inner Visions Property)
Date of Value:	May 13, 2009
Zoning:	n/a
Highest and Best Use:	Continued use as improved
Market Approach or Economic Life Analysis Supporting Value Determination:	See attached Exhibit A.3 for 771 Palm Avenue and Exhibit A.4 for 803 Palm Avenue

## Exhibit A.4

City of Imperial Beach  
Wylde Sydes Boutique  
Front (Attached)

Page 1

<u>ITEM</u>	<u>QTY</u>	<u>DESCRIPTION</u>	<u>EMV</u>
1.	1	- Burglar alarm (2000 - A - 2 - 11/20)	\$ 990
2.	1	- Closed circuit television w/ 3 cameras (2006 - G - 2 - 7/10)	980
3.	2	- Mirrors 1' x 1' wall mount (2004 - G - 1 - 5/10)	8
4.	1	- Lot pegboard approximately 81 sf (1999 - A - 1 - 10/20 - Pict 2)	105
5.	1	- Telephone (installation only) (1999 - A - 3 - 10/20)	175
6.	1	- Mirror 22" x 66" wall mount (2004 - G - 1 - 5/10)	78
			<hr/> <u>\$ 2,336</u> <hr/>

<u>ITEM</u>	<u>QTY</u>	<u>DESCRIPTION</u>	<u>FMV</u>
7.	4 -	Mirrors 1' x 1' wall mount  (2004 - G - 1 - 5/10)	\$ 16
8.	1 -	Sink 64" x 30" OA SS const 2 sink w/ drain board  (1999 - A - 4 - 10/20 - Pict 9)	375
9.		Plumbing rough in sink  (1999 - A - 1 - 10/20)	345
10.	1 -	Air conditioner, room Fedders 1 ton (est)  (1999 - F - 1 - 5/15)	160
11.	1 -	Shelf 48" x 9" wd/mtl  (1999 - A - 1 - 10/20)	15
12.	1 -	Table 48" x 24" formica const wall mount  (1999 - A - 1 - 10/20)	100
			<u>\$ 1,011</u>

City of Imperial Beach  
Wylde Sydes Boutique  
Signs (Attached)

<u>ITEM</u>	<u>QTY</u>	<u>DESCRIPTION</u>	<u>FMV</u>
13.	1 -	Sign 17" x 252" plastic face "Wylde Sydes" et al  (2004 - G - 5 - 15/20 - Pict 10)	\$ 630
14.	1 -	Sign letters 7 - 8" 3 - 10" 44 - 5" vinyl on window "Body Piercing" et al  (2004 - G - 5 - 10/15 - Pict 10)	370
15.	2 -	Signs 53" x 23" vinyl on window "Logo"  (2004 - G - 5 - 10/15 - Pict 10)	140
16.	1 -	Sign 22" x 16" vinyl on window "Wylde Sydes" et al  (2004 - G - 5 - 10/15)	170
			<hr/> <u>\$ 1,310</u>

City of Imperial Beach  
 Wyldes Sydes Boutique  
 Leasehold Improvements

<u>ITEM</u>	<u>QTY</u>	<u>DESCRIPTION</u>	<u>FMV</u>
17.		Security bars windows 1 - 110" x 93", stl 1 - 36" x 36", stl doors 1 - 36" x 82" 1 - 31" x 82"	\$ 715
		(1999 - A - 1 - 10/20)	
18.		Lights fluorescent 24 - 2T/4'	1,750
		(1999 - A - 1 - 10/20 - Pict 1, 2)	
19.		Finish paint 2,450 sf flooring 1,350 sf	2,675
		(1999 - A - 1 - 10/20 - Pict 1, 2, 3, 4, 5, 6, 9)	
20.		Plumbing vanity 25" x 19" x 36" wd const w/ sink water heater 20 gal, electric pipe copper 1/2" - 50'	640
		(1999 - A - 1 - 10/20)	
21.		Wiring breaker panel 100 amp (est), 120 v, 6 pl w/ breakers 3 - 30 amp 6 - 20 amp conduit 1/2" - 65' switch (1) receptacles (9)	415
		(1999 - A - 1 - 10/20)	\$ 6,195

## Exhibit A.3

City of Imperial Beach  
Inner Visions  
Store (Attached)

Page 1

<u>ITEM</u>	<u>QTY</u>	<u>DESCRIPTION</u>	<u>FMV</u>
I.		Pegboard 124 sf wd const	\$ 50
		(1983 - G - 1 - 4/30)	<hr/>

City of Imperial Beach  
Inner Visions  
Signs (Attached)

Page 2

<u>ITEM</u>	<u>QTY</u>	<u>DESCRIPTION</u>	<u>FMV</u>
2.	1	- Sign 25' x 4' plastic face "Inner Visions"	\$ 280
		(1983 - G - 2 - 4/30 - Pict 1)	<hr/>

City of Imperial Beach  
Inner Visions  
Leasehold Improvements

<u>ITEM</u>	<u>QTY</u>	<u>DESCRIPTION</u>	<u>FMV</u>
3.		Finish wall paint 2,040 sf flooring tile, vinyl 1,500 sf	\$ 1,450
		(1983 - A - 1 - 4 30/)	
4.		Lighting fluorescent 20 - 2T/4'	600
		(1983 - A - 1 - 4/30)	
5.		Security bars 26 ½ sf stl const	125
		(1983 - A - 1 - 4/30)	\$ 2,175

**Eminent Domain  
Information Pamphlet**  
(SB 698 / California Gov. Code §7267.2(a)(2))

**I. Introduction**

Eminent domain is the power of the government to purchase private property for a "public use" so long as the property owner is paid "just compensation." The decision to acquire private property for a public project usually involves many persons and many decisions. The final decision to proceed with a project that requires acquisition of private property is made by the Imperial Beach Redevelopment Agency after a thorough review of the project, which often includes public hearings. Whenever feasible, Imperial Beach Redevelopment Agency tries to avoid use of the eminent domain power, but sometimes it is necessary.

This pamphlet provides general information about the eminent domain process and the rights of property owners and tenants in that process.<sup>1</sup>

- **What is a "public use"?**

A "public use" is a use which concerns the whole community or promotes the general interest in relation to government objectives like public health, safety and welfare. Public uses include a wide variety of projects such as street improvements, construction of water storage facilities, construction of civic buildings, redevelopment of blighted areas, and levee improvements to increase flood protection. Some public uses are for private entities, such as universities, hospitals and public utilities, which serve the public.

- **What is "just compensation"?**

Just compensation is the **fair market value** of the property being acquired by the government. The statutory definition of fair market value is "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available."

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<sup>1</sup> This pamphlet reflects the current law as of January 1, 2008. However, the information in this pamphlet is not, nor should it be construed as, legal advice. You should consult with qualified legal counsel regarding your specific situation rather than relying on this pamphlet as legal advice.

## II. The Eminent Domain Process and Your Rights

The eminent domain process begins with a public use project. When selecting a project location, the goal is to render the greatest public good and the least private injury or inconvenience. If it is determined that all or a portion of a property may be necessary for a public use project, the Imperial Beach Redevelopment Agency will begin the appraisal process to determine the property's fair market value.

- **How is the fair market value of your property determined?**

The Imperial Beach Redevelopment Agency will hire an independent, accredited appraiser familiar with local property values to appraise your property. The appraiser will invite the owner to accompany him or her during an inspection of your property. The owner may give the appraiser any information about improvements and any special features that he or she believes may affect the value of your property. If an owner is unable to meet with the appraiser, he or she may wish to have a person who is familiar with the property meet with the appraiser instead.

After the inspection, the appraiser will complete an appraisal that will include the appraiser's determination of the property's fair market value and the information upon which the fair market value is based. The appraiser will provide the Imperial Beach Redevelopment Agency with the appraisal. The Imperial Beach Redevelopment Agency will then make a written offer to purchase the property along with a summary of the appraisal. The offer will be for no less than the amount of the appraisal.

- **What factors does the appraiser consider in determining fair market value?**

Each parcel of real property is different and, therefore, no single formula can be used to appraise all properties. Among the factors an appraiser typically considers in estimating fair market value are:

- The location of the property;
- The age and condition of improvements on the property;
- How the property has been used;
- Whether there are any lease agreements relating to the property;
- Whether there are any environmental issues, such as contaminated soil;
- Applicable zoning and land use requirements;
- How the property compares with similar properties in the area that have been sold recently;
- How much it would cost to reproduce the buildings and other structures, less any depreciation; and
- How much rental income the property produces, or could produce if put to its highest and best use

- **Will I receive a copy of the appraisal?**

The Imperial Beach Redevelopment Agency is only required to show the owner a copy of the full appraisal if the property is an owner-occupied residential property with four or fewer residential units. Otherwise, the Imperial Beach Redevelopment Agency may, but is not required, to disclose its full appraisal during negotiations. However, the Imperial Beach

Redevelopment Agency is required to provide with its purchase offer, a summary of the appraiser's opinion and the basis for the Imperial Beach Redevelopment Agency's offer. Among other things, this summary must include:

- A general statement of the Imperial Beach Redevelopment Agency's proposed use for the property;
- An accurate description of the property to be acquired;
- A list of the improvements covered by the offer; and
- The amount of the offer; and
- The amount considered to be just compensation for each improvement which is owned by a tenant and the basis for determining that amount.

• **Can I have my own appraisal done?**

Yes. A property owner may decide to obtain his or her own appraisal of the property in negotiating the fair market value with the Imperial Beach Redevelopment Agency. At the time of making its initial offer, the Imperial Beach Redevelopment Agency must offer to reimburse the owner for the reasonable costs, not to exceed \$5,000, of an independent appraisal of the property. To be eligible for reimbursement, the independent appraisal must be conducted by an appraiser licensed by the Office of Real Estate Appraisers.

• **What advantages are there in selling property to the Imperial Beach Redevelopment Agency?**

A real estate transaction with the Imperial Beach Redevelopment Agency is handled in the same way as the sale of private property. However, there may be a financial advantage to selling to the Imperial Beach Redevelopment Agency.

- You will not be required to pay for real estate commissions, title costs, preparation of documents, title policy or recording fees required in closing the sale. The Imperial Beach Redevelopment Agency will pay all these costs.
- Although the Imperial Beach Redevelopment Agency cannot give you tax advice or direction, you might also be eligible for certain property tax and income tax advantages.

• **If only a portion of my property is taken, will I be paid for the loss to my remaining property?**

In general, when only a part of a property is needed, every reasonable effort is made to ensure there is no financial loss to the "remainder" property. The Imperial Beach Redevelopment Agency will pay for the fair market value of the property being taken as well as compensation for any loss in value to the remaining property that is not offset by the benefits conferred by the project. The compensation for the loss in value to the remaining property is often referred to as "severance damages."

• **Will I be compensated for loss of goodwill to my business?**

If you are the owner of a business that is conducted on the property being acquired, you may have a right to compensation for lost business goodwill if the loss of goodwill is a result of the acquisition of the property. "Goodwill" consists of the benefits that accrue to a

business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of a new patronage. A business owner who is a tenant in the property being acquired may be entitled to goodwill compensation.

- **What will happen to the loan on my property?**

Where the Imperial Beach Redevelopment Agency is acquiring the entire property, generally the compensation payable to the owner would first be used satisfy outstanding loans or liens as in a typical real estate transaction. Where less than the entire property is being acquired, whether outstanding loans or liens are paid from the compensation will depend on the particular facts and circumstances.

- **Do I have to sell at the price offered?**

No. If you and the Imperial Beach Redevelopment Agency are unable to reach an agreement on a mutually satisfactory price, you are not obligated to sign an offer to sell or purchase agreement.

- **If I agree to accept the Imperial Beach Redevelopment Agency's offer, how soon will I be paid?**

If you reach a voluntary agreement to sell your property or property interest to the Imperial Beach Redevelopment Agency, payment will be made at a mutually acceptable time. Generally, this should be possible within 30 to 60 days after a purchase contract is signed by all parties.

- **What happens if we are unable to reach an agreement on the property's fair market value?**

The Imperial Beach Redevelopment Agency, to the greatest extent practicable, will make every reasonable effort to acquire property by negotiated purchase. If, however, the negotiations are unsuccessful, the Imperial Beach Redevelopment Agency may file an eminent domain action in a court located within the same county where the property is located.

The first step is for Imperial Beach Redevelopment Agency staff to request authority from the Imperial Beach Redevelopment Agency Board to file a condemnation action. The approval from the Imperial Beach Redevelopment Agency Board is called a "Resolution of Necessity" ("RON"). In considering whether to adopt the RON, the Imperial Beach Redevelopment Agency Board must determine whether the public interest and necessity require the project, whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury, and whether your property is necessary for the project. You will be given notice and an opportunity to appear before the Imperial Beach Redevelopment Agency Board, when it considers whether to adopt the RON. You may want to call an attorney so that you or your representatives can raise any objections to the RON and the condemnation either orally before the Imperial Beach Redevelopment Agency Board or in writing to the Imperial Beach Redevelopment Agency Board.

If the Imperial Beach Redevelopment Agency Board adopts the RON, the Imperial Beach Redevelopment Agency can file a complaint to acquire title to the property upon payment of the property's fair market value. The Imperial Beach Redevelopment Agency is the plaintiff. Anyone with a legal interest in the property (including a tenant) is named as a defendant. Often, the Imperial Beach Redevelopment Agency will also deposit the amount the Imperial Beach Redevelopment Agency believes is the "probable amount of compensation" with the State Treasurer or the county treasurer where the complaint is filed. A deposit must be made if the Imperial Beach Redevelopment Agency is seeking to acquire possession of the property before agreement is reached on the fair market value.

- **Can the Imperial Beach Redevelopment Agency acquire possession of my property before an agreement is reached as to the property's fair market value?**

In some cases, the Imperial Beach Redevelopment Agency may decide it needs possession of the property before the property's fair market value is finally determined. In such a case, the Imperial Beach Redevelopment Agency must apply to the court for an "order for possession" to allow it to take possession and control of the property prior to resolution of the property's fair market value. The Imperial Beach Redevelopment Agency is required to schedule a hearing with the court on the proposed order for possession and give notice of the hearing. Notice must generally be sent 90 days before the hearing date if the property is occupied and 60 days before the hearing date if the property is unoccupied. A judge will decide whether the order for possession should be granted. As noted above, the Imperial Beach Redevelopment Agency must deposit with the State Treasurer or county the "probable amount of compensation" in order to obtain possession of the property.

- **Can I oppose the motion for an order for possession?**

Yes. You may oppose the motion in writing by serving the Imperial Beach Redevelopment Agency and the court with your written opposition within the period of time set forth in the notice from the Imperial Beach Redevelopment Agency.

- **Can I withdraw the amount deposited with the State Treasurer or county before the eminent domain action is completed, even if I don't agree that the amount reflects the fair market value of my property?**

Yes. Subject to the rights of any other persons having a property interest (such as a lender, tenant, or co-owner), you may withdraw the amount deposited with the State Treasurer or county before the eminent domain action is completed. If you withdraw the amount on deposit, you may still seek a higher fair market value during the eminent domain proceedings, but you may not contest the right of the Imperial Beach Redevelopment Agency to acquire the property, meaning you cannot contest that the acquisition of the property is for a public purpose or is otherwise not proper.

You also have the right to ask the court to require the Imperial Beach Redevelopment Agency to increase the amount deposited with the State Treasurer or county if you believe the amount the Imperial Beach Redevelopment Agency has deposited less than the "probable amount of compensation."

- **Can I contest the Imperial Beach Redevelopment Agency's acquisition of the property?**

Yes. Provided you have not withdrawn the amount deposited, you can challenge in court the Imperial Beach Redevelopment Agency's right to acquire or condemn the property.

- **What happens in an eminent domain trial?**

The main purpose of an eminent domain trial is to determine the fair market value of your property, including compensable interests such as lost business goodwill caused by the taking. The trial is usually conducted before a judge and jury. Both the owner (and others with interests in the property) and the Imperial Beach Redevelopment Agency will have the opportunity to present evidence of value, and the jury will determine the property's fair market value. In cases where the parties choose not to have a jury, the judge will decide the property's fair market value. Generally, each party to the litigation must disclose its respective appraisals to the other parties prior to trial.

If you challenge the Imperial Beach Redevelopment Agency's right to acquire the property, the eminent domain trial will also determine whether or not the Imperial Beach Redevelopment Agency has the legal right to acquire the property.

- **Am I entitled to interest?**

Anyone receiving compensation in an eminent domain action is generally entitled to interest on that compensation from the date the Imperial Beach Redevelopment Agency takes possession of the property until the person receiving the compensation has been fully paid. The rate and calculation of the interest is determined under formulas in State law.

- **Will the Imperial Beach Redevelopment Agency pay my attorneys' fees and costs.**

In an eminent domain action, you are entitled to be reimbursed by the Imperial Beach Redevelopment Agency for your court costs such as court filing fees. In some circumstances, you may also be entitled to be reimbursed by the Imperial Beach Redevelopment Agency for your attorneys' fees in the lawsuit. Whether you will be entitled to receive reimbursement for your attorneys' fees will depend on the particular facts and circumstances of the case and the offers and demand for compensation made in the case.

- **Will I receive assistance with relocation?**

Any person, business, or farm operation displaced as a result of the property acquisition is entitled to relocation advisory and financial assistance for eligible relocation expenses, such as moving expenses. The amount of relocation compensation is determined on a case-by-case basis in accordance with prescribed law. Relocation benefits are handled separate and apart from the determination of the property's fair market value and are not part of the eminent domain process.



Via First-Class Mail

January 5, 2010

Ms. Debra Sides, doing business as Inner Visions  
803 Palm Avenue  
Imperial Beach, CA 91932

**NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY TO ACQUIRE CERTAIN REAL PROPERTY OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN**

Dear Ms. Sides:

California Code of Civil Procedure section 1240.030 provides that the power of eminent domain may be exercised to acquire property for a proposed project if the following conditions are established:

- (a) The public interest and necessity require the project.
- (b) The project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- (c) The property sought to be acquired is necessary for the project.
- (d) The offer required by Government Code section 7267.2 has been made to the owner of record.

You are hereby notified that the Board of Directors of the Imperial Beach Redevelopment Agency at its meeting to be held on January 20, 2010, at 6:00 p.m. at 825 Imperial Beach Boulevard, Imperial Beach, CA 91932, will meet to decide if the above conditions are met concerning your property and, if the conditions are met, to adopt a Resolution of Necessity.

Questions regarding the amount of compensation to be paid are not part of this proceeding and the Board of Directors does not consider such in determining whether a Resolution should be adopted:

The adopted Resolution will authorize the Imperial Beach Redevelopment Agency to acquire the property by eminent domain. A description of the required property is attached to this Notice and is marked "Exhibit A."

The proposed public use is for the 9<sup>th</sup> & Palm Redevelopment Project consisting of approximately 45,300 square feet of four single-story retail structures and 271 parking spaces. The development of the property for this public use will begin within two years of the acquisition.

If you file a written request to appear (within 15 days from the mailing of this Notice), you are entitled to appear and object to the adoption of the Resolution. Objections are limited to the four conditions listed above.

All requests to appear must be sent for filing to Jacqueline Hald, Clerk of the Board of Directors, at 825 Imperial Beach Boulevard, Imperial Beach, CA 91932.

Your written request must actually be on file within the 15-day period. Failure to file a written request results in a waiver of your rights to appear and be heard.

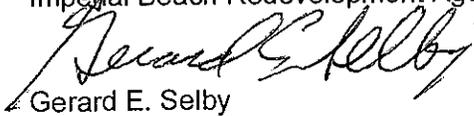
The written request to appear should include a statement of the condition(s) that you feel are pertinent to your property. The four conditions that may affect your property are set forth above, designated (a), (b), (c) and (d). By designating which condition forms the basis of your concerns, and why, you will enable the board of Directors of the Imperial Beach Redevelopment Agency to have a full and expeditious review made of the project's effect on your property.

For your convenience, the Board of Directors will consider any written observations you may wish to submit, as long as such written observations are filed within the 15-day period.

The Imperial Beach Redevelopment Agency must adopt a Resolution of Necessity before an eminent domain proceeding can be commenced. Within six months of the adoption of the Resolution of Necessity, the Imperial Beach Redevelopment Agency will commence eminent domain proceedings in the Superior Court of San Diego County. In that proceeding, the Court will determine the amount of compensation which you are entitled.

If you have any questions, please call Gerard E. Selby at (619) 424-2226.

Imperial Beach Redevelopment Agency



Gerard E. Selby  
Redevelopment Coordinator

Enclosure

**"EXHIBIT A"**

**DESCRIPTION OF REQUIRED PROPERTY**

Property Owner: Imperial Beach Redevelopment Agency  
Item: Commercial Unit  
Location & APN: 803 Palm Avenue, Imperial Beach, CA  
APN 626-250-06  
Description: Furniture, fixtures and equipment located in the commercial unit.



**Via First-Class Mail**

January 5, 2010

Mr. James Sides, doing business as Wylde Sydes Boutique  
771 Palm Avenue  
Imperial Beach, CA 91932

**NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY TO ACQUIRE CERTAIN REAL PROPERTY OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN**

Dear Mr. Sides:

California Code of Civil Procedure section 1240.030 provides that the power of eminent domain may be exercised to acquire property for a proposed project if the following conditions are established:

- (a) The public interest and necessity require the project.
- (b) The project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- (c) The property sought to be acquired is necessary for the project.
- (d) The offer required by Government Code section 7267.2 has been made to the owner of record.

You are hereby notified that the Board of Directors of the Imperial Beach Redevelopment Agency at its meeting to be held on January 20, 2010, at 6:00 p.m. at 825 Imperial Beach Boulevard, Imperial Beach, CA 91932, will meet to decide if the above conditions are met concerning your property and, if the conditions are met, to adopt a Resolution of Necessity.

Questions regarding the amount of compensation to be paid are not part of this proceeding and the Board of Directors does not consider such in determining whether a Resolution should be adopted.

The adopted Resolution will authorize the Imperial Beach Redevelopment Agency to acquire the property by eminent domain. A description of the required property is attached to this Notice and is marked "Exhibit A."

The proposed public use is for the 9<sup>th</sup> & Palm Redevelopment Project consisting of approximately 45,300 square feet of four single-story retail structures and 271 parking spaces. The development of the property for this public use will begin within two years of the acquisition.

If you file a written request to appear (within 15 days from the mailing of this Notice), you are entitled to appear and object to the adoption of the Resolution. Objections are limited to the four conditions listed above.

All requests to appear must be sent for filing to Jacqueline Hald, Clerk of the Board of Directors, at 825 Imperial Beach Boulevard, Imperial Beach, CA 91932.

Your written request must actually be on file within the 15-day period. Failure to file a written request results in a waiver of your rights to appear and be heard.

The written request to appear should include a statement of the condition(s) that you feel are pertinent to your property. The four conditions that may affect your property are set forth above, designated (a), (b), (c) and (d). By designating which condition forms the basis of your concerns, and why, you will enable the Board of Directors of the Imperial Beach Redevelopment Agency to have a full and expeditious review made of the project's effect on your property.

For your convenience, the Board of Directors will consider any written observations you may wish to submit, as long as such written observations are filed within the 15-day period.

The Imperial Beach Redevelopment Agency must adopt a Resolution of Necessity before an eminent domain proceeding can be commenced. Within six months of the adoption of the Resolution of Necessity, the Imperial Beach Redevelopment Agency will commence eminent domain proceedings in the Superior Court of San Diego County. In that proceeding, the Court will determine the amount of compensation which you are entitled.

If you have any questions, please call Gerard E. Selby at (619) 424-2226.

Imperial Beach Redevelopment Agency

  
Gerard E. Selby  
Redevelopment Coordinator

Enclosure

**"EXHIBIT A"**

**DESCRIPTION OF REQUIRED PROPERTY**

Property Owner: Imperial Beach Redevelopment Agency  
Item: Commercial Unit  
Location & APN: 771 Palm Avenue, Imperial Beach, CA  
APN 626-250-05  
Description: Furniture, fixtures and equipment located in the commercial unit.

**RESOLUTION NO. R-10-203**

**A RESOLUTION OF NECESSITY OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY PERTAINING TO THE ACQUISITION OF CERTAIN PROPERTY OR INTEREST IN PROPERTY, LEASEHOLD INTEREST IN PROPERTY, IF ANY, AND LOSS OF GOODWILL PURSUANT TO SECTION 1263.510 OF THE CODE OF CIVIL PROCEDURE, IF ANY, FOR USE BY THE AGENCY IN THE DEVELOPMENT OF 9<sup>TH</sup> & PALM REDEVELOPMENT PROJECT IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1245.230 OF THE CODE OF CIVIL PROCEDURE OF THE STATE OF CALIFORNIA**

**WHEREAS**, on February 7, 1996, by adoption of Ordinance No. 96-901, the Imperial Beach City Council (the "City Council") approved a Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project ("the Original Project Area"); and

**WHEREAS**, on January 17, 1996, by adoption of Resolution No. 96-4569, the City Council certified the Final Environmental Impact Report for the Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project pursuant to the California Environmental Quality Act; and

**WHEREAS**, on October 19, 1994, by adoption of Resolution No. 94-4427, the City Council approved and adopted the Imperial Beach General Plan/Local Coastal Plan Text (GPA 93-01) and Local Coastal Plan Amendment (LCPA 93-01) ; and

**WHEREAS**, on March 14, 2005, by adoption of Resolution No. 05-65, the Imperial Beach Redevelopment Agency approved and adopted the Five-Year Implementation Plan; and

**WHEREAS**, on October 6, 2004, by adoption of Resolution No. 04-47, the Imperial Beach Redevelopment Agency approved and adopted the Economic Development Plan; and

**WHEREAS**, the Original Project Area provides for redevelopment projects such as the 9<sup>th</sup> & Palm Redevelopment Project and the use of eminent domain in furtherance of redevelopment projects such as the 9<sup>th</sup> & Palm Redevelopment Project; and

**WHEREAS**, the Agency seeks to acquire the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, involved in order to complete the development of the 9<sup>th</sup> and Palm Redevelopment Project; and

**WHEREAS**, the property which shall be acquired is more specifically described in Exhibit "A" attached hereto and by this reference incorporated herein; and

**WHEREAS**, the acquisition of said certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, for the 9<sup>th</sup> and Palm Redevelopment Project is authorized by Code of Civil Procedure Section 1240.010 and Health and Safety Code section 33391(b); and

**WHEREAS**, the offers required pursuant to Government Code Section 7267.2 to acquire the certain property or interest in property were presented to the property owners and were based upon an appraisal of the furniture, fixtures and equipment described herein; and

**WHEREAS**, pursuant to Code of Civil Procedure Section 1245.235, notice has been duly given to each person whose name and address appears of record or on the last equalized County assessment roll as property owners of certain property or interest in property located in the County of San Diego, State of California, described herein, of the intention of the Board of Directors of the Imperial Beach Redevelopment Agency (the "Agency") to adopt a Resolution of Necessity and to direct the institution of eminent domain proceedings and informing them of their right to be heard of said matter; and

**WHEREAS**, the Agency finds and determines that notice of its intention to adopt this resolution of necessity was duly given as required by law, and on the date and at the time and place fixed for hearing, this Board did hear and consider all of the evidence presented; and

**WHEREAS**, on January 20, 2010, the Imperial Beach Redevelopment Agency will consider the approval of a Resolution of Necessity for the acquisition by eminent domain of the property as stated herein and located at 803 Palm Avenue required for the 9<sup>th</sup> and Palm Redevelopment Project; and

**WHEREAS**, the proposed redevelopment of the Miracle Shopping Center in accordance with the 9<sup>th</sup> and Palm Redevelopment Project advances the Goals and Objectives of the Imperial Beach General Plan, the objectives of the Palm Avenue/Commercial Avenue Redevelopment Plan and the Five-Year Implementation Plan, and the strategies and mission of the Economic Development Plan: pursue a public/private partnership to improve large commercial properties in the Palm Avenue commercial corridor that will stimulate further improvements in the area; facilitate redevelopment of the Palm and 9<sup>th</sup> Street Commercial Retail Properties; and strengthen the economic viability of Imperial Beach through expanding commercial retail activity, enhancing the character of the residential neighborhoods and improving the quality of life for the entire community; and

**WHEREAS**, the 9<sup>th</sup> and Palm Redevelopment Project includes approximately 45,300 square feet of four single-story retail structures and 271 parking spaces including the construction of sidewalks, curb and gutter, traffic signals and signage, and storm drains ("Project").

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Imperial Beach Redevelopment Agency hereby states:

1. That the Members of the Imperial Beach Redevelopment Agency find and determine that the public interest and necessity require the acquisition of that certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if

any, described in Exhibit "A" hereto, for the development of the 9<sup>th</sup> and Palm Redevelopment Project and that the acquisition of certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, situated in the County of San Diego, State of California, is necessary for the Project.

2. That the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired for the public use, interest and necessity and for the uses and purposes as set forth in Section 1 hereof, is situated in the County of San Diego, State of California, and is more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.
3. That the public improvements described in Section 1 are planned and located in a manner which will be most compatible with the greatest public good and the least private injury inasmuch as it is necessary to locate the Project upon the property to be condemned.
4. That the property sought to be acquired is necessary for the Project.
5. This resolution is exempt from the provisions of section 33679 of the California Health and Safety Code (Redevelopment Law).
6. That, pursuant to Government Code Section 7267.2, an offer to acquire the certain property or interest in property, leasehold interest in property, if any, and goodwill pursuant to Code of Civil Procedure section 1263.510, if any, sought to be condemned herein was presented to the property owner and was based upon an appraisal of the herein described property.
7. That the General Counsel for the Agency is directed to bring an action in the Superior Court of the State of California, in and for the County of San Diego, in the name of the Imperial Beach Redevelopment Agency against all owners and claimants of the property described in Exhibit "A" attached hereto and previously incorporated herein, for the purpose of condemning and acquiring property for the public use of the Imperial Beach Redevelopment Agency and to do all things necessary to prosecute said action to its final determination in accordance with the provisions of applicable law.
8. There is an urgent need to possess the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired so that the Agency may complete a relocation plan and allow the Agency to initiate the redevelopment of the Miracle Shopping Center. Due to the decreasing revenue to the Agency and City of Imperial Beach and the high unemployment rate for the City of Imperial Beach, it is imperative that the Agency commence this project as soon as possible. The creation and development of local job opportunities and the preservation of the area's

existing employment base will encourage investment by the private sector. The 9th & Palm Redevelopment Project will occupy all of the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired and work on the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired. The certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired is necessary for the 9th & Palm Redevelopment Project because it is the intent of the Agency to demolish the existing structures to enable the creation of a commercial project that creates a gateway to the City of Imperial Beach. The construction of the 9th & Palm Redevelopment Project achieves greatest public good by strengthening the economic viability of the City of Imperial Beach through expanding commercial retail opportunities and enhancing the quality of life for the entire community.

**PASSED, APPROVED, AND ADOPTED** by the Imperial Beach Redevelopment Agency at its meeting held on the 20<sup>th</sup> day of January 2010 following roll call vote:

**AYES:**                    **BOARDMEMBERS:**  
**NOES:**                   **BOARDMEMBERS:**  
**ABSENT:**                **BOARDMEMBERS:**

*James C. Janney*  
\_\_\_\_\_  
**JAMES C. JANNEY**  
**CHAIRPERSON**

**ATTEST:**

*Jacqueline M. Hald*  
\_\_\_\_\_  
**JACQUELINE M. HALD, CMC**  
**SECRETARY**

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Redevelopment Resolution No. R-10-203 – A Resolution of Necessity of the Imperial Beach Redevelopment Agency pertaining to the acquisition of certain real property or interest in real property for use by the agency in the development of 9<sup>th</sup> & Palm Redevelopment Project in compliance with the requirements of Section 1245.230 of the code of civil procedure of the State of California

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
DATE

**"EXHIBIT A"**  
**DESCRIPTION OF REQUIRED PROPERTY**

Property Owner:	Imperial Beach Redevelopment Agency
Tenant:	Debra Sides doing business as Inner Visions
Item:	Commercial Unit
Location & APN:	803 Palm Avenue, Imperial Beach, CA APN 626-250-06
Description:	Furniture, fixtures and equipment located in the commercial unit.

**RESOLUTION NO. R-10-204**

**A RESOLUTION OF NECESSITY OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY PERTAINING TO THE ACQUISITION OF CERTAIN PROPERTY OR INTEREST IN PROPERTY, LEASEHOLD INTEREST IN PROPERTY, IF ANY, AND LOSS OF GOODWILL PURSUANT TO SECTION 1263.510 OF THE CODE OF CIVIL PROCEDURE, IF ANY, FOR USE BY THE AGENCY IN THE DEVELOPMENT OF 9<sup>TH</sup> & PALM REDEVELOPMENT PROJECT IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1245.230 OF THE CODE OF CIVIL PROCEDURE OF THE STATE OF CALIFORNIA**

**WHEREAS**, on February 7, 1996, by adoption of Ordinance No. 96-901, the Imperial Beach City Council (the "City Council") approved a Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project ("the Original Project Area"); and

**WHEREAS**, on January 17, 1996, by adoption of Resolution No. 96-4569, the City Council certified the Final Environmental Impact Report for the Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project pursuant to the California Environmental Quality Act; and

**WHEREAS**, on October 19, 1994, by adoption of Resolution No. 94-4427, the City Council approved and adopted the Imperial Beach General Plan/Local Coastal Plan Text (GPA 93-01) and Local Coastal Plan Amendment (LCPA 93-01) ; and

**WHEREAS**, on March 14, 2005, by adoption of Resolution No. 05-65, the Imperial Beach Redevelopment Agency approved and adopted the Five-Year Implementation Plan; and

**WHEREAS**, on October 6, 2004, by adoption of Resolution No. 04-47, the Imperial Beach Redevelopment Agency approved and adopted the Economic Development Plan; and

**WHEREAS**, the Original Project Area provides for redevelopment projects such as the 9<sup>th</sup> & Palm Redevelopment Project and the use of eminent domain in furtherance of redevelopment projects such as the 9<sup>th</sup> & Palm Redevelopment Project; and

**WHEREAS**, the Agency seeks to acquire the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, involved in order to complete the development of the 9<sup>th</sup> and Palm Redevelopment Project; and

**WHEREAS**, the property which shall be acquired is more specifically described in Exhibit "A" attached hereto and by this reference incorporated herein; and

**WHEREAS**, the acquisition of said certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, for the 9<sup>th</sup> and Palm Redevelopment Project is authorized by Code of Civil Procedure Section 1240.010 and Health and Safety Code

section 33391(b); and

**WHEREAS**, the offers required pursuant to Government Code Section 7267.2 to acquire the certain property or interest in property were presented to the property owners and were based upon an appraisal of the furniture, fixtures and equipment described herein; and

**WHEREAS**, pursuant to Code of Civil Procedure Section 1245.235, notice has been duly given to each person whose name and address appears of record or on the last equalized County assessment roll as property owners of certain property or interest in property located in the County of San Diego, State of California, described herein, of the intention of the Board of Directors of the Imperial Beach Redevelopment Agency (the "Agency") to adopt a Resolution of Necessity and to direct the institution of eminent domain proceedings and informing them of their right to be heard of said matter; and

**WHEREAS**, the Agency finds and determines that notice of its intention to adopt this resolution of necessity was duly given as required by law, and on the date and at the time and place fixed for hearing, this Board did hear and consider all of the evidence presented; and

**WHEREAS**, on January 20, 2010, the Imperial Beach Redevelopment Agency will consider the approval of a Resolution of Necessity for the acquisition by eminent domain of the property as stated herein and located at 771 Palm Avenue required for the 9<sup>th</sup> and Palm Redevelopment Project; and

**WHEREAS**, the proposed redevelopment of the Miracle Shopping Center in accordance with the 9<sup>th</sup> and Palm Redevelopment Project advances the Goals and Objectives of the Imperial Beach General Plan, the objectives of the Palm Avenue/Commercial Avenue Redevelopment Plan and the Five-Year Implementation Plan, and the strategies and mission of the Economic Development Plan: pursue a public/private partnership to improve large commercial properties in the Palm Avenue commercial corridor that will stimulate further improvements in the area; facilitate redevelopment of the Palm and 9<sup>th</sup> Street Commercial Retail Properties; and strengthen the economic viability of Imperial Beach through expanding commercial retail activity, enhancing the character of the residential neighborhoods and improving the quality of life for the entire community; and

**WHEREAS**, the 9<sup>th</sup> and Palm Redevelopment Project includes approximately 45,300 square feet of four single-story retail structures and 271 parking spaces including the construction of sidewalks, curb and gutter, traffic signals and signage, and storm drains ("Project").

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Imperial Beach Redevelopment Agency hereby states:

1. That the Members of the Imperial Beach Redevelopment Agency find and determine that the public interest and necessity require the acquisition of

that certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, described in Exhibit "A" hereto, for the development of the 9<sup>th</sup> and Palm Redevelopment Project and that the acquisition of certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, situated in the County of San Diego, State of California, is necessary for the Project.

2. That the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired for the public use, interest and necessity and for the uses and purposes as set forth in Section 1 hereof, is situated in the County of San Diego, State of California, and is more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.
3. That the public improvements described in Section 1 are planned and located in a manner which will be most compatible with the greatest public good and the least private injury inasmuch as it is necessary to locate the Project upon the property to be condemned.
4. That the property sought to be acquired is necessary for the Project.
5. This resolution is exempt from the provisions of section 33679 of the California Health and Safety Code (Redevelopment Law).
6. That, pursuant to Government Code Section 7267.2, an offer to acquire the certain property or interest in property, leasehold interest in property, if any, and goodwill pursuant to Code of Civil Procedure section 1263.510, if any, sought to be condemned herein was presented to the property owner and was based upon an appraisal of the herein described property.
7. That the General Counsel for the Agency is directed to bring an action in the Superior Court of the State of California, in and for the County of San Diego, in the name of the Imperial Beach Redevelopment Agency against all owners and claimants of the property described in Exhibit "A" attached hereto and previously incorporated herein, for the purpose of condemning and acquiring property for the public use of the Imperial Beach Redevelopment Agency and to do all things necessary to prosecute said action to its final determination in accordance with the provisions of applicable law.
8. There is an urgent need to possess the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired so that the Agency may complete a relocation plan and allow the Agency to initiate

the redevelopment of the Miracle Shopping Center. Due to the decreasing revenue to the Agency and City of Imperial Beach and the high unemployment rate for the City of Imperial Beach, it is imperative that the Agency commence this project as soon as possible. The creation and development of local job opportunities and the preservation of the area's existing employment base will encourage investment by the private sector. The 9<sup>th</sup> & Palm Redevelopment Project will occupy all of the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired and work on the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired. The certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure section 1263.510, if any, to be acquired is necessary for the 9<sup>th</sup> & Palm Redevelopment Project because it is the intent of the Agency to demolish the existing structures to enable the creation of a commercial project that creates a gateway to the City of Imperial Beach. The construction of the 9<sup>th</sup> & Palm Redevelopment Project achieves greatest public good by strengthening the economic viability of the City of Imperial Beach through expanding commercial retail opportunities and enhancing the quality of life for the entire community.

**PASSED, APPROVED, AND ADOPTED** by the Imperial Beach Redevelopment Agency at its meeting held on the 20<sup>th</sup> day of January 2010 following roll call vote:

**AYES:**                    **BOARDMEMBERS:**  
**NOES:**                   **BOARDMEMBERS:**  
**ABSENT:**                **BOARDMEMBERS:**

*James C. Janney*  
\_\_\_\_\_  
**JAMES C. JANNEY**  
**CHAIRPERSON**

**ATTEST:**

*Jacqueline M. Hald*  
\_\_\_\_\_  
**JACQUELINE M. HALD, CMC**  
**SECRETARY**

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Redevelopment Resolution No. R-10-204 – A Resolution of Necessity of the Imperial Beach Redevelopment Agency pertaining to the acquisition of certain real property or interest in real property for use by the agency in the development of 9<sup>th</sup> & Palm Redevelopment Project in compliance with the requirements of Section 1245.230 of the code of civil procedure of the State of California.

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
DATE

**"EXHIBIT A"**  
**DESCRIPTION OF REQUIRED PROPERTY**

Property Owner:	Imperial Beach Redevelopment Agency
Tenant:	James Sides doing business as Wylde Sydes Boutique
Item:	Commercial Unit
Location & APN:	771 Palm Avenue, Imperial Beach, CA APN 626-250-05
Description:	Furniture, fixtures and equipment located in the commercial unit.



**STAFF REPORT  
CITY OF IMPERIAL BEACH**

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
**FROM:** City Manager

**MEETING DATE:** JANUARY 20, 2010  
**ORIGINATING DEPT:** GARY BROWN, CITY MANAGER

**SUBJECT:** RESOLUTION NO. 2010-6843 – AUTHORIZING AGREEMENT FOR CONSULTANT SERVICES TO SERVE AS PART-TIME ASSISTANT CITY MANAGER

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**BACKGROUND:**

The Assistant City Manager's position has been unfilled since Mr. Ritter's departure in June, 2009, except for a brief period when we had a part-time Interim Assistant.

**DISCUSSION:**

Though Department Heads and other staff assumed more work and picked up part of Mr. Ritter's workload, I believe I need additional help to achieve Council's priorities and effectively serve as City Manager. Therefore I would like Council's approval to enter into a contract with DKC Associates so Mr. Doug Clark can work part-time as Assistant City Manager. Mr. Clark was City Manager for the City of Escondido from 1989-1998 and City Manager/Finance Director for Larkspur from 1985-1989. He has also been a Development Services Director in Costa Mesa. I believe he is well qualified to serve our City as a part-time Assistant City Manager. His work hours will average 20 hours a week, and the cost will be \$80 per hour which is less than the total hourly compensation received by Mr. Ritter.

**ENVIRONMENTAL IMPACT:**

Not a project as defined by CEQA.

**FISCAL IMPACT:**

The agreement will not exceed \$42,000. Funds are available due to not filling the Assistant City Manager position.

**CITY MANAGER'S RECOMMENDATION:**

Approve Resolution No. 2010-6843 authorizing a Professional Services Agreement with DKC Associates.

A handwritten signature in black ink, appearing to read "Gary Brown", is written over a horizontal line.

Gary Brown, City Manager

**Attachments:**

1. Resolution No. 2010-6843
2. Professional Services Agreement with DKC Associates

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AUTHORIZING AGREEMENT FOR CONSULTANT SERVICES TO SERVE AS PART-TIME ASSISTANT CITY MANAGER**

**WHEREAS**, the position of Assistant City Manager (ACM) is unfilled; and

**WHEREAS**, the City Council and the City Manger believe it is worthwhile to use consultant services to perform the duties of the ACM on a part-time basis; and

**WHEREAS**, Mr. Doug Clark has the necessary background and skills to serve as the City's part-time ACM; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Imperial Beach as follows:

1. The above recitals are true and correct.
2. The City Manager is authorized to enter into a Professional Services Agreement with DKC Associates; and

**BE IT FURTHER RESOLVED** that funds for this agreement shall come from funds already budgeted for the Assistant City Manager's position.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its meeting held on the 20<sup>th</sup> day of January 2010, by the following roll call vote:

**AYES: COUNCILMEMBERS:**  
**NOES: COUNCILMEMBERS:**  
**ABSENT: COUNCILMEMBERS:**

\_\_\_\_\_  
**JAMES C. JANNEY, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JACQUELINE M. HALD, CMC**  
**CITY CLERK**

**PROFESSIONAL SERVICES AGREEMENT  
FOR CONSULTANT SERVICES TO BE PROVIDED BY DKC ASSOCIATES**

THIS professional services agreement ("AGREEMENT") is made and entered into this January 21, 2010 by and between the CITY OF IMPERIAL BEACH, a municipal corporation ("CITY"), and DKC Associates, Incorporated ("CONSULTANT") (collectively "PARTIES").

**WHEREAS**, The CITY desires to employ a CONSULTANT to furnish general consulting services, management assistance, research, special studies, and other projects as assigned by the City Manager ("PROFESSIONAL SERVICES"); and

**WHEREAS**, The CITY has determined that CONSULTANT is qualified by experience and ability to perform the services desired by CITY, and CONSULTANT is willing to perform such services; and

**WHEREAS**, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the CITY.

**NOW, THEREFORE**, the PARTIES hereto mutually covenant and agree with each other as follows:

**1. PROFESSIONAL SERVICES.**

**1.1. Scope of Services.** The Consultant shall perform PROFESSIONAL SERVICES as set forth in the "Essential Duties and Responsibilities" and "Peripheral Duties" in the position description of the Assistant City Manager, Exhibit A. CITY shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT.

**1.2. Project Coordinator.** The City Manager is hereby designated as the Project Coordinator for CITY and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. Douglas K. Clark is hereby designated as the Project Director for CONSULTANT.

**1.3 City Modification of Scope of Services.** CITY may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT'S cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT'S compensation and/or contract time shall be made, subject to the CITY'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and CITY.

## 2. DURATION OF AGREEMENT.

**2.1 Term, Time for Performance.** This AGREEMENT shall commence on January 21, 2010 and continue for at least 5 months **or until the funds in Paragraph 3.1** are expended, whichever occurs sooner. Specific work hours and site of work will be mutually agreed upon by the Consultant and City Manager. Some work will be done at the offices of DKC Associates when approved by the City Manager.

**2.2 Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.

**2.3 City's Right to Terminate for Default.** Should CONSULTANT be in default of any covenant or condition hereof, CITY may immediately terminate this AGREEMENT for cause if CONSULTANT fails to cure the default within ten (10) calendar days of receiving written notice of the default.

**2.4 City's Right to Terminate without Cause.** Without limiting its rights in the event of CONSULTANT's default, CITY may terminate this AGREEMENT, without cause, by giving written notice to CONSULTANT. Such termination shall be effective 15 days after receipt of the written notice. CONSULTANT shall be compensated for all effort and material expended on behalf of CITY under the terms of this AGREEMENT, up to the effective date of termination. All personal property remaining in CITY facilities or on CITY property thirty (30) days after the expiration or termination of this AGREEMENT shall be, at CITY's election, considered the property of CITY.

## 3. COMPENSATION.

**3.1. Total Amount.** The total cost for all work described in the Scope of Services shall not exceed **\$42,000** without prior written authorization from CITY. CONSULTANT shall bill the CITY \$80 per hour for work provided and shall present a written request for such payment on a bi-weekly basis. The Consultant will work an average of 20 hours per week.

**3.2. Additional Services.** CITY may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, CITY and CONSULTANT shall agree to the cost prior to commencement of these services.

**4. INDEPENDENT CONTRACTOR.** CONSULTANT is, for all purposes arising out of this AGREEMENT, an independent contractor. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder, the CITY only being concerned with the finished results of the work being performed. Neither CONSULTANT nor CONSULTANT's employees shall in any event be entitled to any benefits to which CITY employees are entitled, including, but not limited to, overtime, any retirement benefits, workers' compensation benefits, any injury leave or other leave benefits, CONSULTANT being solely responsible for all such matters, as well as compliance with social security and income tax withholding and all other regulations and laws governing such matters.

**5. STATEMENT OF EXPERIENCE.** CONSULTANT agrees that it has the financial resources, service experience, completion ability, personnel, and experience in dealing with public agencies necessary for performing the Scope of Services and that such performance shall be in accordance with the standards customarily adhered to by an experienced and competent professional local government consulting firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. By executing this AGREEMENT, CONSULTANT represents that it has demonstrated trustworthiness and possesses the quality, fitness, and capacity to perform the AGREEMENT in a manner satisfactory to CITY.

**6. AUDIT OF RECORDS.**

**6.1.** At any time during normal business hours and as often as may be deemed necessary the CONSULTANT shall make available to a representative of CITY for examination all of its records with respect to all matters covered by this AGREEMENT and shall permit CITY to audit, examine and/or reproduce such records. CONSULTANT shall retain such financial and program service records for at least four (4) years after termination or final payment under this AGREEMENT.

**6.2.** The CONSULTANT shall include the CITY's right under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

**7. CONFIDENTIALITY.** All professional services performed by CONSULTANT, including but not limited to all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by CONSULTANT, pursuant to this AGREEMENT, are for the sole use of the CITY, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. This provision does not apply to information that (a) was publicly known, or otherwise known to CONSULTANT, at the time that it was disclosed to CONSULTANT by the CITY, (b) subsequently becomes publicly known through no act or omission of CONSULTANT or (c) otherwise becomes known to CONSULTANT other than through disclosure by the CITY. Except for any subcontractors that may be

allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the CITY. The sole purpose of this section is to prevent disclosure of CITY's confidential and proprietary information by CONSULTANT or subcontractors.

## **8. CONFLICTS OF INTEREST.**

**8.1.** CONSULTANT shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code §§ 81000 et seq. (Political Reform Act) and §§ 1090 et seq. CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code § 87103. CONSULTANT represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the CITY.

**8.2.** CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act. The CONSULTANT shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the CITY's determination that the CONSULTANT is subject to a conflict of interest code. The CONSULTANT shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the CONSULTANT was subject to a conflict of interest code.

**8.3.** If, in performing the PROFESSIONAL SERVICES set forth in this AGREEMENT, the CONSULTANT makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the CITY that would otherwise be performed by a CITY employee holding a position specified in the department's conflict of interest code, the CONSULTANT shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the CONSULTANT's relevant financial interests.

**9. OWNERSHIP OF DOCUMENTS.** All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT shall be considered the property of CITY. CONSULTANT shall be permitted to reference and use said materials for use in future studies, work, and marketing so long as said materials are considered "public documents" and are not subject to attorney-client privilege, or the subject of pending closed or executive session discussions.

## **10. INSURANCE**

**10.1.** CONSULTANT shall procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" unless otherwise approved in writing by the CITY's Risk Manager.

**10.2.** CONSULTANT's liabilities, including but not limited to CONSULTANT's indemnity obligations, under this AGREEMENT, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the CITY is entitled to thirty (30) days prior written notice (ten (10) days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this AGREEMENT.

**10.3. Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

**10.3.1. Commercial General Liability (CGL).** Insurance written on an ISO Occurrence form CG 00 01 07 98 or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of **\$2 million** per occurrence and subject to an annual aggregate of **\$4 million**. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

**10.3.2. Commercial Automobile Liability.** For all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of **\$1 million** per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

**10.4. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions are the responsibility of the CONSULTANT and must be declared to and approved by the CITY. At the option of the CITY, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officers, officials, employees and volunteers, or (2) the CONSULTANT shall provide a financial guarantee satisfactory to the CITY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

**10.5. Additional Required Provisions.** The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

**10.5.1.** The CITY, its officers, officials, employees, and representatives shall be named as additional insureds. The CITY's Additional Insured status must be reflected on additional insured endorsement form which shall be submitted to the CITY.

**10.5.2.** The policies are primary and non-contributory to any insurance that may be carried by the CITY, as reflected in an endorsement which shall be submitted to the CITY.

**10.6. Verification of Coverage.** CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this Section 5. The endorsement should be on forms provided by the CITY or on other than the CITY's forms provided those endorsements conform to CITY requirements. All certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

**11. INDEMNIFICATION.** CONSULTANT agrees to indemnify, defend, and hold harmless the CITY, and its officers, officials, agents and employees from any and all claims, demands, costs or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, agents, and subcontractors in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the CITY or its elected officials, officers, agents, and employees. CONSULTANT's indemnification obligations shall not be limited by the insurance provisions of this AGREEMENT. The PARTIES expressly agree that any payment, attorney's fees, costs or expense CITY incurs or makes to or on behalf of an injured employee under the CITY's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this AGREEMENT.

**12. SUBCONTRACTORS.**

The CONSULTANT agrees that there will be no hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT.

**13. NON-DISCRIMINATION.** CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin, nor shall CONSULTANT discriminate against any qualified individual

with a disability. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.

**14. NOTICES.** All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted below.

Gary Brown, City Manager  
City of Imperial Beach  
825 Imperial Beach Blvd.  
Imperial Beach, CA 91932

Douglas K. Clark, President  
DKC Associates, Inc.  
3635 7<sup>th</sup> Ave - 6E  
San Diego, CA 92103  
(619) 501-4513,

**15. ASSIGNABILITY.** This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the CITY.

**16. RESPONSIBILITY FOR EQUIPMENT.** CITY shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by CONSULTANT or any of CONSULTANT's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to CONSULTANT by CITY. The acceptance or use of any such equipment by CONSULTANT, CONSULTANT's employees, or subcontractors shall be construed to mean that CONSULTANT accepts full responsibility for and agrees to exonerate, indemnify and hold harmless CITY from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

**17. CALIFORNIA LAW; VENUE.** This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure § 394.

**18. COMPLIANCE WITH LAWS.** The CONSULTANT shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT.

**19. ENTIRE AGREEMENT.** This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

**20. NO WAIVER.** No failure of either the CITY or the CONSULTANT to insist upon the strict performance by the other of any covenant, term or condition of this AGREEMENT, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this AGREEMENT shall constitute a waiver of any such breach of such covenant, term or condition.

**21. SEVERABILITY.** The unenforceability, invalidity, or illegality of any provision of this AGREEMENT shall not render any other provision unenforceable, invalid, or illegal.

**22. DRAFTING AMBIGUITIES.** The PARTIES agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this AGREEMENT, and the decision of whether or not to seek advice of counsel with respect to this AGREEMENT is a decision which is the sole responsibility of each Party. This AGREEMENT shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the AGREEMENT.

**23. CONFLICTS BETWEEN TERMS.** If an apparent conflict or inconsistency exists between the main body of this AGREEMENT and the Exhibits, the main body of this AGREEMENT shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this AGREEMENT, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this AGREEMENT, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this AGREEMENT.

**24. EXHIBITS INCORPORATED.** All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

**25. SIGNING AUTHORITY.** The representative for each Party signing on behalf of a corporation, partnership, joint venture or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or PARTIES hereto harmless if it is later determined that such authority does not exist.

(Signatures follow on next page)

DKC Associates  
General Professional Services Agreement  
Assistant City Manager

**IN WITNESS WHEREOF**, the PARTIES hereto have executed this AGREEMENT the day and year first hereinabove written.

CITY of IMPERIAL BEACH,  
a municipal corporation

DKC ASSOCIATES  
a \_\_\_\_\_ corporation

\_\_\_\_\_  
Gary Brown, City Manager

By: \_\_\_\_\_  
Douglas K. Clark , President

ATTEST:

\_\_\_\_\_  
Jacqueline Hald, City Clerk

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Gary Brown, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
James P. Lough, City Attorney

**Exhibit A**

Put here the first page of the Position Description for the Assistant City Manager

***City of Imperial Beach***  
**Position Description**

<b>Title:</b>	<b>Assistant City Manager</b>	<b>Job Number:</b>	<b>2020</b>
<b>Department:</b>	<b>City Manager</b>	<b>Workers' Comp Number:</b>	<b>8810</b>
<b>Division:</b>	<b>Executive Management</b>	<b>Employee Labor Group:</b>	<b>None/Management</b>
<b>Location:</b>	<b>City of Imperial Beach</b>		

**GENERAL PURPOSE**

Under administrative direction of the City Manager, performs highly responsible and complex professional administrative work while assisting the City Manager with the direction and coordination of the activities of all City departments; promotes effective and efficient operations throughout the organization by facilitating interdepartmental cooperation and resource pooling; provides leadership in making recommendations in policy formulation; and acts for the City Manager in his absence.

**SUPERVISION RECEIVED**

Works under the general supervision of the City Manager

**SUPERVISION EXERCISED**

May exercise supervision over assigned departments, staff, and activities as designated by City Manager.

**ESSENTIAL DUTIES AND RESPONSIBILITIES**

Acts for the City Manager in his/her absence. Acts as liaison between the Council, departments, and public agencies with regards to obtaining information, addressing administrative and citizen concerns, and resolving problems. Assists the City Manager in the direction and coordination of City operations. Assists the City Manager in the preparation, coordination, review and presentation of the annual operating and capital improvement budget and with various budget control activities. Conducts organizational studies of programs and City departments, as assigned, to improve level of public services, efficiency and effectiveness. Develops recommendations for City Manager on staffing and organization. Represents the City Manager at meetings of boards and commissions, other agencies and public groups. May attend City Council Meetings. Analyzes legislation and makes recommendations on City action based upon proposed or enacted legislation. May supervise the operations of designated departments and assigned employees.

Serves as the City's Personnel Administrator under the direction of the City Manager regarding enforcement of all personnel policies and procedures; Responsible for implementation of the City's personnel rules and regulations; Handles the City's labor relations and employee grievance processes in compliance with negotiated labor agreements; Conducts investigations of confidential, personnel related matters for compliance with all federal, state labor laws and regulations. Conducts performance evaluations and approves compensation adjustments of assigned personnel, including designated department directors, and hires and disciplines subordinate employees; and performs other related work as assigned by City Manager.

**PERIPHERAL DUTIES**

Coordinates and oversees the implementation of policies and procedures for the City Manger; Confers with the City Manager and City Council to determine basic policies and procedures to municipal issues, as directed; Advises and assists all City Departments and related agencies in administering, reviewing and coordinating City activities; Resources and operations; Assists in the negotiation, development and administration of contracts; Conducts comprehensive analysis, studies, and surveys of administrative matters regarding the determination of policy and administrative action; Represents the City Manager at various community and official events and meetings; Meets with the public and with officials of other cities; agencies and civic groups in the development and coordination of City affairs; Assists in the drafting of proposed resolutions and ordinances; Prepares correspondence; and performs related duties as required.