City of Sacramento
Law and Legislation Committee

COMMITTEE MEMBERS:

LAUREN HAMMOND, Chair (D-5)

SANDY SHEEDY (D-2)
Councilmember

STEVE COHN (D-3)
Councilmember

ROBBIE WATERS (D-7)
Councilmember

CITY STAFF:

Shirley Concolino
City Clerk

Patti Bisharat
Government Affairs

Yvette Rincon
Legislative *Analyst*

Joe Robinson
Deputy City Attorney

City Hall
915 I Street, 1st Floor – Council Chambers

July 18, 2006 – 12:30 P.M.

The Law and Legislation Committee is a Standing Committee, a permanent committee of the City Council established to consider subjects of a particular class. Its purpose is to review state and federal legislation affecting the City and proposed changes to municipal ordinances in order to make recommendations to the full City Council.

NOTICE TO THE PUBLIC

You are welcomed and encouraged to participate in this meeting. Public comment is taken (3 minutes maximum) on items listed on the agenda when they are called. Public Comment on items not listed on the agenda will be heard at the end of the meeting as noted on the agenda. Comments on controversial items may be limited and large groups are encouraged to select 3-5 speakers to represent the opinion of the group.

Notice to Lobbyists: When addressing the Committee you must identify yourself as a lobbyist and announce the client/business/organization you are representing (City Code 2.15.160).

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Government Code 54950 (The Brown Act) requires that a brief description of each item to be transacted or discussed be posted at least 72 hours prior to a regular meeting. The City posts Agendas at City Hall as well as offsite meeting locations.

The order of Agenda items are listed for reference and may be taken in any order deemed appropriate by the legislative body. The Agenda provides a general description and staff recommendations; however, the legislative body may take action other than what is recommended. Full staff reports are available for public review on the City's website and include all attachments and exhibits. "To Be Delivered" and "Supplemental" reports will be published as they are received. Hard copies are available at the Office of the City Clerk. (25 cents per page)

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AGENDA

Tuesday July 18, 2006

City Hall
915 I Street - First Floor Council Chamber

All items listed are heard and acted upon by the Law and Legislation Committee unless otherwise noted.

Call to Order

Roll Call

Consent Calendar

All items listed under the Consent Calendar are considered and acted upon by one motion. A member of the legislative body or staff may request an item be removed for separate consideration.

1. **Approval of Minutes for June 20, 2006.**
   Location: (Citywide)

   Recommendation: Approve Committee minutes for June 20, 2006.

   Contact: Yvette Rincon, Legislative Analyst, (916) 808-5827, City Manager's Office.

2. **Law and Legislation Log**
   Location: (Citywide)

   Recommendation: Approve legislative log

   Contact: Yvette Rincon, Legislative Analyst, (916) 808-5827, City Manager's Office.

3. **Approval of Minutes from Past Meetings**
   Location: (Citywide)

   Recommendation: Approve Minutes from Past Meetings

   Contact: Yvette Rincon, Legislative Analyst, (916) 808-5827, City Manager's Office.

Staff Reports

Staff reports include oral presentations including those recommending receive and file. Each speaker is limited to a maximum of 3 minutes.

4. **SB 354 Relating to a Proposed Amendment to Existing Brownfields Law.**
   Location: Citywide

   Recommendation: Staff recommends that the Law and Legislation Committee adopt a support position on SB 354.

   Contact: Laura Sainz, Senior Project Manager, 808-2677

5. **AB 2782 Relating to City-State Land Exchanges and Children's Museum.**
Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt a support position on AB 2782.

Contact: Bob Overstreet, Director of Parks and Recreation, 808-1190

6. **Amend Ordinance Relating to the Recovery of Costs Incurred in the Enforcement of the Nuisance Code, Housing Code, and Dangerous Buildings Code.**
Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee approve and forward to the Mayor and Council the attached ordinance amending Sections 8.04.430 and 8.96.360 of the City Code related to recovery of costs of abatement of nuisances and enforcement of the housing and dangerous building codes.

Contact: Max Fernandez, Director of Code Enforcement, 808-7940

7. **Amend City Code for Animal Care Services**
Location: Citywide

Recommendation: Staff requests direction from the Law and Legislation Committee regarding proposed revisions to the City animal code relating to public safety, licensing, animal protection and welfare, and enforcement collection practices.

Contact: Hector Cazares, Animal Care Services Manager, 808-7433

Public Comments- Matters Not on the Agenda

8. **To be announced**

Adjournment

9. **To be announced**

LAW AND LEGISLATION COMMITTEE
Preliminary Calendar
As of July 10, 2006

DISCLAIMER: The following information is tentative as to dates and subjects.

August 1, 2006
Front yard Landscaping – **Code Enforcement**
Discussion Paper on an Ordinance to Implement the Disease Prevention Project – **City Manager's Office**

August 15, 2006
An Ordinance Relating to Bi-Directional Amplification Devices in Newly Constructed Buildings – **Police Department**
Amend Card Room Ordinance – **Police Department**
Approve Ordinance to Enforce the California Vehicle Code in Specified Private Parking Lots – **Police Department**

September 5, 2006
Amendments to Marina Ordinance – **Convention Culture & Leisure**
Solid Waste and Recycling Facility Fee – **Solid Waste Department**

PENDING ORDINANCES/REPORTS:
Report Back on Contract Standards – **Finance/Procurement Department**
Report Back on Representation of Neighborhood Associations - **Development Svcs/NSD**
Contractual Conflict of Interest of City Employees – **Finance Department**
Drug & Gun Free Zones and Creation of Civil Exclusion - **Police**
Illegal Dumping Vehicle Impound Ordinance – **Utilities Department**
Housing Trust Fund Nexus Study - **Development Svcs**
Amend Ordinance Regarding Reward Program – **Utilities Department**
Amend Tree Ordinance – **Parks & Rec**
Public Financing of Campaigns – **City Clerk**
Report Back on Rental Inspection Pilot Program – **Code Enforcement**
Report Back on City Infill Housing Project – **Development Svcs**
Amend Ordinance Relating to Recycling Centers – **Development Svcs**
Discussion paper on Truancy/Daytime Curfew for Teens – **Police Department**
Discussion paper on Trespassing Ordinance – **Code Enforcement & Police**
Amendments to Update Development Services Code – **Development Svcs**
Alcohol Use Permit Processing Ordinance – **Police Department**
R Street Urban Design Plan and SPD Amendments - **Development Svcs**
Ordinance to Regulate Valet Parking – **Transportation Dept.**
AB 777 Relating to Tax Credits and Motion Picture Production – **City Manager's Office**
Report Back on City-wide Sign Ordinance and A-Frame Signs - **Development Svcs**
Tot Lot Ordinance – **Parks Department**
Docks Area Plan – **Economic Development**

REPORT TO LAW & LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2671

1

Consent
July 18, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Approval of Minutes – June 20, 2006

Location/Council District: All

Recommendation: Approve the minutes for the Committee meeting of June 20, 2006.

Contact: Yvette Rincon, Legislative Analyst - 808-5827

Presenters: None

Department: City Manager's Office

Division: Legislative Affairs

Organization No: 0300

Summary: Staff recommends the approval of the minutes for the Committee meeting of June 20, 2006.

Committee/Commission Action: None.

Financial Considerations: None.

Environmental Considerations: None.

Policy Considerations: None.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: _____
Yvette Rincon, Legislative Analyst

Recommendation Approved:

_____
GUSTAVO F. VINA
Assistant City Manager

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ATTACHMENT A

City of Sacramento
Law and Legislation Committee
MINUTES

COMMITTEE MEMBERS:

LAUREN HAMMOND, Chair (D-5)

SANDY SHEEDY (D-2)
Councilmember

STEVE COHN (D-3)
Councilmember

ROBBIE WATERS (D-7)
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Legislative *Analyst*

Joe Robinson
Deputy City Attorney

City Hall
915 I Street, 1st Floor – Council Chambers

June 20, 2006 – 12:30 P.M.

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MINUTES

Tuesday June 20, 2006

City Hall
915 I Street - First Floor Council Chamber

All items listed are heard and acted upon by the Law and Legislation Committee unless otherwise noted.

Call to Order – 12:33pm

Roll Call – Sheedy, Waters, Chair Hammond present. Cohn arrived at 12:43pm

Consent Calendar

All items listed under the Consent Calendar are considered and acted upon by one motion. A member of the legislative body or staff may request an item be removed for separate consideration.

1. **Approval of Minutes for June 8, 2006.**
   Location: (Citywide)

   Recommendation: Approve Committee minutes for June 8, 2006.

   Contact: Yvette Rincon, Legislative Analyst, (916) 808-5827, City Manager's Office.

   Action: Moved/Seconded/Carried (Sheedy/Hammond) approval of June 8, 2006 minutes. The committee also approved corrections to the June 8, 2006 minutes which were as follows: approval of proposed changes to the structure of the Sacramento Commission of History and Science and direction to staff to include flexible language that would allow the Commission to make future structural changes as needed to carry out the mission of the Commission.

2. **Law and Legislation Log**
   Location: (Citywide)

   Recommendation: Approve legislative log

   Contact: Yvette Rincon, Legislative Analyst, (916) 808-5827, City Manager's Office.

   Action: Moved/Seconded/Carried (Sheedy/Hammond) approval of legislation log.

Staff Reports

Staff reports include oral presentations including those recommending receive and file. Each speaker is limited to a maximum of 3 minutes.

3. **Mobile Food Vendor Ordinance**
   Location: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee forward the attached ordinance regulating Mobile Food Vending to the City Council for adoption.

Contact: Brad Wasson, Revenue Manager, 808-5844
Russell Fehr, Finance Director, 808-5832

Action: Moved/Seconded/Carried (Cohn/Hammond) the committee directed staff to convene a small taskforce to discuss how the city should regulate mobile food vendors. The committee directed the taskforce to discuss the possibility of separating commercial from residential regulation and the separation of hours of operation for different types of mobile food vendors. Staff should invite all that attended the committee meeting to join the taskforce and include stakeholders that represent both sides of the issue. Staff should also include Mr. LeBeouf in the taskforce.

Public testimony was given by the following: David LeBeouf, Raekwon Muenda, Ron Carroll, Manita Carramen, Linda Roberts, George Azar, Philip Wright, Kimba Kabaka, Elizabeth Wilder, Sharie Lesniak, Monica Engebreston, Andee Leisy, Larry Barrows, Chip Conrad, Horace Boykin, Sabrina Hocker, Ilsa Hess, Allyson Goble, James Ortiz, and Phoebe Demund.

Public Comments- Matters Not on the Agenda

4. To be announced – None.

Adjournment

5. To be announced – 1:52pm

Legislation Log

							revised	10-Jul-06
	Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date 1	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion 2	City Departments Possibly Affected
					NEW OR UPDATED ITEMS			
1	**6.06.1**	**Docks Area Plan Ordinance**	**Econ Development/ Laura Sainz**	**5-Dec-06**	**Adopt, by ordinance, the Docks Area Specific Plan and Special Planning District.**	**TBD**	**TBD**	**TBD**
2	**6.06.2**	**Amend Card Room Ordinance**	**CM Waters/ Police/ Kim Riley**	**15-Aug-06**	**Amend ordinance to increase tables from 8 to 9, ability to amend**	**TBD**	**TBD**	**TBD**
3	**7.06.1**	**Ordinance to Enforce California Vehicle Code in Specified Private Parking Lots**	**Police Dept/ Kim Riley**	**15-Aug-06**	**Approve an ordinance to authorize the Police dept to enforce certain CA vehicle codes in prviate parking lots, including Arden Fair Mall.**	**TBD**	**TBD**	**Police Dept**
					SCHEDULED LAW & LEG ITEMS			
4	03.05.03	Front yard Landscaping Ordinance	NSD/Max Fernandez	1-Aug-06	Amend City Code related to front yard landscaping to allow maintained garden vegetation. Committee directed staff to return with more restrictive language.	Possibly	Moderate	Dev Svcs / NSD
5	5.06.3	Discussion Paper on an Ordinance to Participate in the Disease Prevention Project	CM Tretheway/ CMO/ Yvette Rincon	1-Aug-06	CM Tretheway asked staff to research an ordinance that would permit the City to participate in the Disease Prevention Demonstration Project as authorized by SB 1159 in 2004, this program would include a needle purchase program.	TBD	TBD	TBD
6	5.06.4	An Ordinance Relating to Bi-Directional Amplification Devices in Newly Constructed Buildings	Police/ Kim Riley	15-Aug-06	The proposed ordinance would require that all new buildings over 5,000 square feet be required to install bi-directional amplification (BDA) devices, as needed, in newly constructed buildings. Ninety days after the certificate of occupancy is issued the building owner will have to provide certification that a test was done to determine if the BDA is necessary. If it is necessary, then a BDA must be installed. The State has implemented legislation that will begin January 1, 2008. This ordinance is intended to carry us through until the State legislation becomes effective.	TBD	TBD	TBD
7	1.06.1	Amendments to Marina Code	CC&L/Michelle Heppner	5-Sep-06	Amendments to the Marina Code to update and address administrative processes.	Yes	Moderate	CC&L

1 Reflects atty drafting time only not time required for the leg. process, incl. staff direction, public outreach, comm. meetings, wkshps, formal noticed public hearings req. for adoptions.
2 Limited =<10 hrs, Moderate =10-40 hrs, Sig. => 40 hrs

Legislation Log

	Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date 1	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion 2	City Departments Possibly Affected
8	4.04.1	Solid Waste Facility Fee/ Host Benefit Fee	General Svcs/Harold Duffy	September	Ordinance to mitigate potential impacts to a geographic area relative to locating a solid waste facility. The Law & Leg Committee heard a staff report on this issue on November 4, 2004 and directed staff to get input from an advisory committee and report back to the L&L Committee with recommendations on fees.	To be Determined	To be Determined	Solid Waste/ Dev Svcs
9	3.06.6	Discussion Paper on a Trespassing Ordinance	CM Tretheway/ Code & Police / Max Fernandez	August/Sept	Amend ordinance relating to trespassing on private property.	Possibly	TBD	Code/Police
10	1.06.3	Update on Rental Inspection Program Pilot	L&L Committee/Code	Fall 06	At the meeting of January 17, 2006 the Law & Leg Committee requested a report back on the Rental Inspection Pilot Program after six months.	No	Not Applicable	Code
11	3.06.3	Report Back on City Infill Housing Project	L&L CommitteeDSD/ Luncinda Wilcox	September 2006	The Law & Leg Committee heard this item on 3/7/06 and requested a report back in six months on the status of the project to include the housing plans that have been approved to date.	No	N/A	DSD
12	1.05.02	Amend Tree Ordinance	Parks & Rec/Joe Benassini	Fall 2006	Amend the City's Tree Ordinance to add section to: allow assessment of fees; prohibit topping of trees; and amend the tree permit appeals process.	To be Determined	To be determined	Parks & Rec
13	03.05.05	Public Campaign Financing	CMO/Clerk	Winter 2006	Staff returning to committee, per City Council direction, to review what other cities do regarding qualifications on use of public funds for campaigns and oversight.	Yes	Moderate	CMO/Clerk
					LAW AND LEG COMMITTEE ORDINANCE & REPORTS - DATE PENDING			
14	3.04.3	Contractual Conflict of Interest of City Employees	Finance	Pending	Amendment of code related to prohibition on city employees having a financial interest in a city contract.	No	Limited	Citywide
15	11.04.2	Establish Drug & Gun Free Zones and Creation of Civil Exclusion	Police/Sherri Scruggs	Pending	Subject heard by Committee on 12/7/04. Staff met with Portland DA and federal agencies to share information. CAO reviewing information provided. There are concerns regarding the differences in the Oregon and California state constitutions which could impact the ordinance. Staff will follow-up with a date to return to the committee.	Possibly	Significant	Police/CAO

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Legislation Log

	Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date 1	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion 2	City Departments Possibly Affected
16	1.2	Update on Sign Ordinance and Sign Program	CM Waters/Dev Svcs/ NSD	Pending	Development Svcs staff will meet with CM Waters to provide an update. Report presented to Committee in January 2004. Committee provided feedback and directed staff to report back. Staff is reviewing the issue and preparing its report back to the Committee.	Yes	Significant	Dev Svcs/ NSD
17	09.04.02	Illegal Dumping Vehicle Impound Ordinance	CM Hammond Utilities/Harold Duffy	Pending	Provide for seizure and impound for a specified time for vehicles involved in illegal dumping. Code and CAO working on options. Pending court decision.	Potentially Yes	Significant	Utilities/Code
18	05.05.02	Housing Trust Fund Nexus Study	Dev Svcs	Pending	Item heard by Council on April 18 as part of the Affordable Housing Workshop. Based on the recommendations by Council, staff will bring this item to L&L.	Possibly	To Be Determined	Dev Svcs
19	08.05.1	Amend Ordinance Relating to Reward Program	Waters/Utilities/ Harold Duffy	Pending	Amend ordinance relating to reward program to allow payment of reward at arrest and prosecution.	Unlikely	Limited	Utilities
20	6.03.02	Report Back on Representation of Neighborhood Associations	CM Sheedy/DSD/ NSD	Pending	On June 3, 2003 the Law & Leg Committee requested a report back regarding the noticing process and reliance on Neighborhood Associations that do not always represent a majority of residence on an issue. Staff will update the Neighborhood Assc. list and discuss options to public outreach.	To Be Determined	To Be Determined	DSD/NSD
21	5.03.02	Report Back on Contract Standards	CM Sheedy/ Finance/Procurement	Pending	Law & Leg Committee heard a report on SB163 on 5/20/03. Report back requested on what contract standards the city currently uses, an evaluation of the proposed standards of SB163 and how they may help the city improve its standards and a recommendation from staff for other contracting standards we should apply in the City.	Potentially	To Be Determined	Finance
22	3.06.4	Amend Ordinance relating to Recycling Centers	CM Hammond/ DSD	Pending	Address design guidelines for recycling cubicles (dumpsters), definition of recycling and developing siting criteria.	TBD	TBD	DSD

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Legislation Log

	Tracking Number	Subject Matter	Ordinance Sponsor/ Staff	Estimated Law & Legislation hearing Date 1	Notes	Controversial or Significant Policy Issues	Anticipated Attorney Drafting Time for Completion 2	City Departments Possibly Affected
23	3.06.5	Truancy/ Daytime Curfew for Teens	CM McCarty/ Police	Pending	Research possible ordinance regarding truancy/daytime curfew for teens.	TBD	TBD	Police
24	2.06.1	Amendments to Development Svcs code	DSD/Julia McGinnis	Pending	An Ordinance amendment updating various sections of chapters 3, 5, 12, 16, and 18 of the City Code referencing City Engineer and Director of Public Works and adding a definition for City Manager's Designee	No	Limited	Dev Svcs
25	12.04.1	Approved Alcohol Use Permits Processing	CM Hammond/ Police/Sherri Scruggs	Pending	Amend Chapter 17 of the City Code regarding deemed approved alcohol use permits processing. Heard by the Law & Leg Committee on 9/20/05. Directed staff to report back with draft ordinance in 120 days.	Possibly	To be determined	Police/Code
26	7.04.2	Amendments to R Street SPD	Dev Svcs/Tara Goddard	Pending	Amendments to R Street Special Planning District to Facilitate Development	To be Determined	To be Determined	Dev Svcs
27	04.06.1	Ordinance to Regulate Valet Parking Operations	DOT/Howard Chan	Pending	Any valet parking operator who performs valet parking services at a restaurant or other place of public assembly will be required to have a valet parking permit.	TBD	TBD	DOT
28	5.06.1	Tot Lot Ordinance	CM Sheedy/Parks & Rec/Alan Boyd	Pending	CM Sheedy asked staff to research an ordinance that would give the city the necessary authority to keep tot lots available for use for only children and not adults.	TBD	TBD	Parks & Rec
29	5.06.5	A-Frame Sign Ordinance or Pilot Program	CM Cohn/ Bill Thomas	Pending	CM Cohn asked that staff review the City of Portland's program for A-Frame signs and report as to whether this program can be implemented in the City as a pilot program.	TBD	TBD	TBD

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REPORT TO LAW & LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2671

3

Consent
July 18, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Approve Minutes for Past Meetings

Location/Council District: All

Recommendation: Approve the minutes for Past Committee Meetings.

Contact: Yvette Rincon, Legislative Analyst - 808-5827

Presenters: None

Department: City Manager's Office

Division: Legislative Affairs

Organization No: 0300

Summary:

A number of Committee meeting minutes were drafted but were overlooked and not brought to the Committee for approval. Staff recommends the approval of the minutes for the Committee meetings of February 15, 2005, March 1, 2005, September 6, 2005, and September 20, 2006.

Committee/Commission Action: None.

Financial Considerations: None.

Environmental Considerations: None.

Policy Considerations: None.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: _____
Yvette Rincon, Legislative Analyst

Recommendation Approved:

_____
GUSTAVO F. VINA
Assistant City Manager

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Pg 1-2 Report
Pg 3-6 Attachment A - Minutes for February 15, 2005, March 1, 2005, September 6, 2005, and September 20, 2006.

ATTACHMENT A

COUNCIL COMMITTEE MINUTES

COMMITTEE NAME: LAW AND LEGISLATION
MEETING DATE: February 15, 2005
MEETING TIME: 12:30 PM

ROLL CALL

Present: Committee Members Hammond (Chair), Cohn, Sheedy, and Waters

Past Chair, Councilmember Cohn, congratulated Council Member Hammond as the new Chair and stated that he looks forward to another good year.

1.0 CONSENT CALENDAR

1.1. Pending Legislation Log

RECOMMENDATION OF STAFF: Approve Log
COMMITTEE ACTION: Approved Log
VOTING RECORD: MOVE: **Waters** SEC: **Sheedy**
AYES: **Hammond, Cohn, Sheedy, Waters**
NOES: None

2.0 STAFF REPORTS

2.1. ORDINANCE AMENDING CHAPTER 13.08 OF THE CITY CODE RELATING TO SEWER AND STORM DRAIN SERVICE SYSTEMS AND ADOPTION OF RESOLUTION TO ESTABLISH COMBINED SYSTEM DEVELOPMENT FEE AMOUNTS

RECOMMENDATION OF STAFF: Approve and forward to City Council
COMMITTEE ACTION: Approved recommendations
VOTING RECORD: MOVE: **Cohn** SEC: **Sheedy**
AYES: **Hammond, Cohn, Sheedy, Waters**
NOES: None

Dave Brent Engineering Manager with the Department of Utilities, provided a short background about the history of the system. Mr. Brent stated that the Department is asking the committee to approve the amendments to the sewer ordinance, specifically the combined sewer system development impact fee to formally adopt what has been an interim version of an impact fee that has been in effect since approximately 1994.

To date there are 37 projects that have signed the agreement. Several projects have paid the City money or they mitigate themselves. Letters have been sent to all of the agreement holders. There has been no opposition to

the agreement. The team has coordinated efforts with SHRA, the City's infill coordinator, and the City's Economic Development Department, as well as neighborhood groups specifically Oak Park business partners, and downtown partnerships. In addition the Taxpayers League has reviewed and given a verbal approval.

Committee Member Cohn agreed with the plan, but stated concerns that we be sure that private development is not subsidizing state office development and its impact on the systems, and that the state is paying its fair share.

2.2. VEHICLE IMPOUND PROGRAM

RECOMMENDATION OF STAFF:	Approve staff recommendation
COMMITTEE ACTION:	Approve staff recommendation and forwarded to City Countil
VOTING RECORD:	MOVE: **Sheedy** SEC: **Hammond, Cohn, Waters** AYES: **Hammond, Cohn, Sheedy, Waters** NOES: None

Patti Bisharat presented the distributed report which recommends that the committee support legislation which allows for the impounding of the vehicles of drivers found to be driving under the influence. A bill has been introduced at the state level. This bill is authored by Senator Cox, Senator Torlakson, and Assembly Member Jones. With this pending bill, the report recommends that the attached resolution be forwarded to City Council supporting a pilot program contingent upon the state legislation passing. At that time staff would report back to the committee on the costs for operating this pilot program.

Ms. Bisharat introduced Dr. Owens, head trauma surgeon at Mercy San Juan Hospital. Dr. Owens shared the video *Wake Up, Drunk Driving Kills* that emphasized DUI statistics and impacts. Dr. Owens feels that vehicles involved in DUI incidents should be impounded at the scene as this is what he refers to as the "teachable moment".

Chair Hammond thanked Dr. Owens and feels that it will be easy for the Council to support this legislation.

Committee Member Cohn reiterated full support. He requests that the committee direct the City's Chief to work with the Sheriff, and California Highway Patrol to come forward with any others measures in support.

Committee Member Waters recommends that the video get out to Channel 14. Committee Member Sheedy added to the motion that the recommendation be adopted and to move it to Council for further review, with the video and a recommendation that the Chief be directed to work with other law enforcement agencies.

Dr. Owens iterated his respect to City representatives for their support in moving this forward.

2.3. 2004 REPORT OF LEGISLATIVE ACTIVITIES

RECOMMENDATION OF STAFF: Committee Information and Forward to City Council

COMMITTEE ACTION: Information received and forwarded to City Council

Tina Lee-Vogt, Legislative Affairs Analyst shared accomplishments of the Law and Legislation Committee, and the Legislative advocacy group.

3.0 CITIZENS ADDRESSING COMMITTEE (MATTERS NOT ON AGENDA)
(A two minute time limit is imposed on speakers addressing the Committee under this heading)

None

4.0 COMMITTEE IDEAS AND QUESTIONS

Chair Hammond asked for a status report on the amendment to Title 10 regarding the taxi zones, code enforcement, Sierra 2 nomination to the Sacramento Register, illegal dumping of vehicles ordinance, and the creation of drug and gun free zones and civil exclusion. Tina Lee-Vogt will report back at the next meeting on these items.

ADJOURNED: There being no further business to come before the Law and Legislation Committee, the meeting was adjourned at the hour of 1:15 PM.

Respectfully submitted,

Evelyn Tavis, Committee Secretary

APPROVED:

Lauren Hammond, Chair

COUNCIL COMMITTEE MINUTES

COMMITTEE NAME: LAW AND LEGISLATION
MEETING DATE: March 01, 2005
MEETING TIME: 12:30 PM

ROLL CALL

Present: **Committee Members Hammond (Chair), Sheedy, and Waters**
Absent: **Committee Member Cohn**

1.0 CONSENT CALENDAR

1.1. Pending Legislation Log

Committee Member Hammond questioned item 30 on the legislation log. Update will be provided. Tina Lee-Vogt stated that an update would be provided for item 30, and also the first five items on the legislation log pending from the 2/15/05 meeting.

RECOMMENDATION OF STAFF: Approve Log
COMMITTEE ACTION: Approved Log
VOTING RECORD: MOVE: **Waters** SEC: **Sheedy**
AYES: **Hammond, Sheedy, Waters**
NOES: **None**
ABSENT: **Cohn**

2.0 STAFF REPORTS

2.1. LEGISLATIVE UPDATE (Oral Report)

Mr. David Jones reported on the status of various senate and assembly bills he felt would of interest to the committee.

Committee Member Waters asked if the first arrest DUI resulting in vehicle impound bill had been presented.

Mr. Jones response: yes

Committee Member Sheedy asked Mr. Jones to email his legislative report information to the committee.

RECOMMENDATION OF STAFF: For Committee Information
COMMITTEE ACTION: For Committee Information
VOTING RECORD: MOVE: SEC:
AYES:
NOES:

2.2. ADDITION OF THE J.C. CARLY HOUSE TO THE SACRAMENTO REGISTER AS A LANDMARK

Preservation Director Roberta Deering explained the process of moving registered landmarks forward to City Council for landmark approval and stated the J.C. Carly house meets the requirements.

Committee Chair Hammond remarked that she feels the renovations to J.C. Carly house meet the historic standards of the period brilliantly.

RECOMMENDATION OF STAFF: Approve and forward to City Council
COMMITTEE ACTION: Approved and forwarded to City Council
VOTING RECORD: MOVE: **Sheedy** SEC: **Waters**
AYES: **Hammond, Sheedy, Waters**
NOES: **None**
ABSENT: **Cohn**

2.3. ADDITION OF WATER METER FUNDING TO 2005 STATE AND FEDERAL LEGISLATIVE PLATFORM

Department of Utilities Media and Communication Specialist Jessica Hess requested that the committee add water meter retrofitting to the legislative platform to open the way for lobbyists to move forward to ask for state and federal funding for the City's $300 million retrofit. Other cities have set a precedent by receiving money for their retrofits through the Water Resources Development Act. For instance the City of Roseville, received $2.2 million for their retrofit project and they continue to lobby for increased funding.

Committee Chair Hammond wanted to know if Ms. Hess knew what percent the $2.2 million of Roseville's total project represents.

Ms. Hess did not have that data.

RECOMMENDATION OF STAFF: Approve and forward to City Council
COMMITTEE ACTION: Approve and add to the legislative platform
VOTING RECORD: MOVE: **Waters** SEC: **Sheedy**
AYES: **Hammond, Sheedy, Waters**
NOES: **None**
ABSENT: **Cohn**

2.4. OPPOSE PROPOSED CHANGES TO PROPERTY TAX ABATEMENT RELATED TO AFFORDABLE HOUSING

Darren Bobrowski, from the Sacramento Housing & Redevelopment Agency (SHRA), spoke on the possible negative financial impacts to local governments generated by proposed changes to the welfare exemption by the State Board of Equalization.

RECOMMENDATION OF STAFF: Approve and forward to City Council
COMMITTEE ACTION: Approved and sent to City Council
VOTING RECORD: MOVE: **Sheedy** SEC: **Waters**
AYES: **Hammond, Sheedy, Waters**
NOES: **None**
ABSENT: **Cohn**

2.5. ORDINANCE AMENDING CHAPTER 15.152 OF THE SACRAMENTO CITY CODE, RELATING TO THE OLD SACRAMENTO SPECIAL SIGN DISTRICT

Nicole York-Johnson, Administrative Officer with Old Sacramento Management, explained the proposed ordinance to keep shop signs and displays in Old Sacramento consistent with the Historic District in size and composition.

Committee Chair Hammond wanted to know the process to remove and prevent non-compliant signs.

- There will be a four month grace period to educate the Old Sacramento shop owners. After the four months, Code Enforcement will govern.

Committee Member Waters and Sheedy commented on A-frame signs within the city and their relationship to this ordinance.

The speaker commented that only Valet Services in Old Sacramento to be allowed to use A-Frame signs, and they must be removed in the evening. In addition they must follow the Americans with Disabilities Act (ADA) accessibility guidelines.

City Attorney Joseph Robinson was asked to follow-up on the City's Sign Ordinance and report back to the committee.

Mr. Steve Huffman re-iterated the readiness to go forward with the ordinance.

RECOMMENDATION OF STAFF: Approve and forward to City Council
COMMITTEE ACTION: Approved and forwarded to City Council
VOTING RECORD: MOVE: **Waters** SEC: **Sheedy**
AYES: **Hammond, Sheedy, Waters**
NOES: **None**
ABSENT: **Cohn**

3.0 <u>CITIZENS ADDRESSING COMMITTEE (MATTERS NOT ON AGENDA)</u> - None

4.0 <u>COMMITTEE IDEAS AND QUESTIONS</u> - None

ADJOURNED: There being no further business to come before the Law and Legislation Committee, the meeting was adjourned at the hour of 1:02 PM.

Respectfully submitted,

Evelyn Tavis, Committee Secretary

APPROVED:

Lauren Hammond, Chair

LAW AND LEGISLATION COMMITTEE
MINUTES

City Hall – 915 I Street
First Floor, Council Chambers
Sacramento, California

Tuesday, September 6, 2005 - 12:30 P.M.

CALL TO ORDER – 12:35 PM

ROLL CALL – All Members Present.

Consent Calendar

ALL ITEMS LISTED ON THE CONSENT CALENDAR ARE CONSIDERED AND ACTED UPON BY ONE MOTION. A MEMBER OF THE COMMITTEE OR STAFF MAY REQUEST AN ITEM TO BE REMOVED FOR SEPARATE CONSIDERATION.

1. PENDING LEGISLATION LOG

RECOMMENDATION OF STAFF:
Approve municipal legislation log.
ACTION: Moved/Seconded/Carried (Waters/Cohn) approval of legislation log.

2. APPROVAL OF COMMITTEE MINUTES

RECOMMENDATION:
Approve minutes for the Committee meeting of June 21, 2005.
ACTION: Moved/Seconded/Carried (Waters/Cohn) approval of legislation log.

3. APPROVAL OF COMMITTEE MINUTES

RECOMMENDATION:
Approve minutes for the Committee meeting of July 21, 2005.
ACTION: Moved/Seconded/Carried (Waters/Cohn) approval of legislation log.

Staff Reports

4. POSITION ON LEGISLATION RELATED TO PENSION REFORM

RECOMMENDATION:
Support the League of California Cities' Pension Reform Task Force goals on pension reforms and proposed legislative actions and continue to participate in efforts of the Task Force.
ACTION: Moved/Seconded/Carried (Cohn/Sheedy). The committee approved an oppose position on ACA 5 and the Governor's initiative. The committee also directed staff to continue working with the League of CA Cities on pension reform issues.

5. SUPPORT AB648 RELATING TO DEVELOPMENT PROJECTS: DISCLOSURE REQUIREMENTS

RECOMMENDATION:
Support AB648 (Jones) relating to development projects disclosure requirements.
ACTION: Moved/Seconded/Carried (Sheedy/Waters) approval of a support position on AB 648.

6. SUPPORT HR 1078 RELATING TO IDENTITY THEFT PENALTIES

RECOMMENDATION:
Support HR1078 which will establish stiffer penalties for the unlawful buying and selling of Social Security Numbers.
ACTION: Moved/Seconded/Carried (Sheedy/Waters) Approval of support position on HR 1078.

7. SUPPORT AB1623 RELATING TO CONGESTION MANAGEMENT AND ENVIRONMENTAL MITIGATION FEE

RECOMMENDATION:
Support AB1623 which will allow air districts and other local agencies to impose a fee on motor vehicle registration to fund a program to manage traffic congestion and mitigate environmental impacts produced by motor vehicles.
ACTION: Moved/Seconded/Carried (Cohn/Sheedy) approval of support position on AB 1623.

8. APPROVE AMENDMENT TO CITY CODE RELATING TO IMPLEMENTATION OF STATE WATER METER LAW

RECOMMENDATION:
Approve and forward to City Council an ordinance amendment to enable implementation of AB2572 provisions relating to water meters.
ACTION: Moved/Seconded/Carried (Cohn/Sheedy) approval of ordinance amendment to enable implementation of AB 2572 and forwarded to City Council.

Citizens Addressing Committee (Matters not on the Agenda)

9. To Be Announced.

Each speaker is limited to a maximum of 3 minutes.

Committee Ideas and Questions

10. To Be Announced.

Adjourned – 1:40 PM

COMMITTEE MEMBERS: Hammond (Chair), Cohn, Sheedy, Waters

Notice is hereby given that the Sacramento City Council will conduct concurrent meetings with the Council Committee(s) listed on this agenda which is incorporated herein by reference. The Special Meeting(s) are called to permit members who are not on the listed committees to attend the meetings and participate in the discussion. In the event five (5) or more members of the City Council are present at a committee meeting, only those items listed on the agenda can be acted upon or discussed.

All meetings will be held at the date, time and place indicated; and the subjects to be considered and acted upon shall be those as listed on the agenda. The numbered items listed on the agenda are a brief description of business to be transacted or discussed; the recommendations of the staff as shown do not prevent the committees from taking other action.

LAW AND LEGISLATION COMMITTEE MINUTES

City Hall – 915 I Street
First Floor, Council Chambers
Sacramento, California

Tuesday, September 20, 2005 – 12:00 P.M.

CALL TO ORDER

ROLL CALL (ALL PRESENT)

Consent Calendar

ALL ITEMS LISTED ON THE CONSENT CALENDAR ARE CONSIDERED AND ACTED UPON BY ONE MOTION. A MEMBER OF THE COMMITTEE OR STAFF MAY REQUEST AN ITEM TO BE REMOVED FOR SEPARATE CONSIDERATION.

1. PENDING LEGISLATION LOG

RECOMMENDATION OF STAFF:
Approve municipal legislation log.

ACTION:
Council Member Cohn made a motion to add an item to the consent calendar, indicating that Max Fernandez would address the group regarding the fact that the City has lax regulations on when privately-owned trucks can pick up dumpsters in residential areas. The item added was "making hours of operation for private haulers consistent with those of the City." Council member Hammond reminded the group that any decision with regard to the item would require approval from Solid Waste Management. She then seconded the addition of the item, and the motion passed unanimously.

Staff Reports

2. ORDINANCE AMENDMENTS: CHAPTER 12.20 OF THE CITY CODE RELATING TO WORK AFFECITNG THE PUBLIC RIGHT OF WAY AND CHAPER 8.68 RELATING TO NOISE CONTROL

RECOMMENDATION:
Approve and forward to City Council.

ACTION: John Blank of the Department of Transportation addressed the committee. He told them that administrative penalty fees for right of way

and noise infractions would be doubled per the ordinance amendments. Council member Sheedy made a motion to approve the amendments and forward them to the full Council; Council member Waters seconded, and the motion passed unanimously.

3. **DISCUSSION PAPER ON AN ORDINANCE ESTABLISHING AN EDUCATION, MONITORING AND ENFORCEMENT PROGRAM FOR ALCOHOLIC BEVERAGE RETAILERS AND AMENDING CHAPTER 17.212 OF THE CITY CODE RELATING TO SPECIAL USE PERMITS**

RECOMMENDATION:
Information and direction to staff.

ACTION: Lieutenant Sylvia Moir of the Sacramento Police Department addressed the Committee about instituting an ordinance similar to one that was successful in Oakland taking a more proactive approach to dealing with alcohol-related issues within the community. There are 901 licensees authorized to sell alcohol within the City of Sacramento; all were invited to briefing forums on the proposed ordinance (approximately 150 attended). Their input indicated strong support for procedural standardization.

Council member Hammond indicated that it was the Committee's hope that the Police Department, the Planning Department, Development Services and the City Attorney's office could work together (in consultation with local businesses, the State Department of Alcoholic Beverage Control and any other involved stakeholders) to produce an ordinance that is not redundant and that would give the City the strength it needs in order to deal with alcohol-related crimes in a proactive, timely and effective manner. Council member Sheedy suggested that the Committee get an ordinance and submit it to Council as quickly as possible.

Assistant City Manager Cassandra Jennings added that she felt that the Code Enforcement Department ought to be consulted as well in the drafting of this ordinance. Council member Hammond suggested that 120 days seemed like a reasonable amount of time for all of the involved stakeholders to collaboratively draft an ordinance for the Committee to review. Council member Sheedy moved that the stakeholders submit their draft resolution to the Committee within 120 days. Council member Hammond seconded the motion, and the motion passed unanimously.

Citizens Addressing Committee (Matters not on the Agenda)

4. **FORTHCOMING RENTAL INSPECTION LEGISLATION.**

Mr. Jim Danielson addressed the committee to voice his strong support for the impending rental inspection legislation, which he said, "has a lot of teeth." It is only the consolidation of existing rules "under one roof" that allows the code enforcement people to do what Mr. Danielson deems "a really effective job." According to Mr. Danielson, inspectors need to be more thorough and to "crawl and climb." He would also like to see various invested city departments working together to ferret out all manner of non-permit work, including re-modeling. His own experience involved the improper installation of a gas heating system.

Additionally, he shortly discovered that the bathtub drained into the crawlspace under the house. The pipe had been turned by some other individual, most likely because the drain was clogged. The GFCI ground fall breakers, which are a code item today (for safety, in order to prevent electrocution), had been incorrectly installed. Vermin were allowed to enter the attic with the full knowledge of the landlord. The tenant entered the attic (with permission) to make initial repairs; the landlord indicated he would make the final repairs, but this never happened. Furthermore, the hot water heater was incorrectly installed, in addition to other, lesser items. The Committee indicated that a "slumlord rebuttal" would not be necessary, and the meeting adjourned at 12:27 p.m.

Each speaker is limited to a maximum of 3 minutes.

Committee Ideas and Questions

5. None.

COMMITTEE MEMBERS: Hammond (Chair), Cohn, Sheedy, Waters

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REPORT TO LAW & LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2671

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STAFF REPORT
July 18, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Legislative Position: Support SB 354 (Escutia) Proposed amendment to existing Brownfields legislation.

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt a support position on SB 354 (Escutia).

Contact: Laura Sainz, Senior Project Manager, 808-2677

Presenters: Laura Sainz, Senior Project Manager

Department: Economic Development

Division: Downtown

Organization No: 4415

Summary:

This report provides information on SB 354, authored by Senator Martha Escutia, which is an amendment to the California Land Environmental Restoration and Reuse ACT (CLERRA), signed into law in 2001 (SB 32, Escutia). Among other things, CLERRA gives cities the authority to either order or directly undertake the investigation and clean up of abandoned and underutilized contaminated properties. SB354 will give the City another tool in cleaning up Brownfields sites throughout the city, particularly in areas outside of existing redevelopment project areas.

Committee/Commission Action: None

Background Information:

SB 354 is an amendment to the California Land Environmental Restoration and Reuse ACT (CLERRA), signed into law in 2001 (SB 32, Escutia). Among other things, CLERRA gives cities the authority to either order or directly undertake the investigation and clean up of abandoned and underutilized contaminated parcels. However, existing law prevents cities from using CLERRA on sites where there is ongoing regulatory oversight. SB 354 will amend SB 32 to allow cities to pursue CLERRA cleanup even if

a site is already under regulatory review. The benefit of SB 354 is that cities will be able to pursue higher clean up standards and/or a more aggressive timeline even if the site is already under regulatory review. This amendment will give the City another tool in cleaning up Brownfields sites throughout the city.

CLERRA is modeled after the Polanco Act, a redevelopment agency tool which does not contain the restriction this amendment seeks to remove. The Polanco Act has been used by redevelopment agencies to successfully partner with oversight agencies and cause the remediation of Brownfields sites. However, the Polanco Act can only be used in redevelopment project areas. CLERRA gives the City the same right on properties within or outside of a redevelopment area.

Financial Considerations: None.

Environmental Considerations: None

Policy Considerations:

The bill will allow municipalities to implement CLERRA in collaboration with oversight agencies for the mutual benefit of all stakeholders. It provides the City with another tool in its economic development efforts, particularly on sites that are not in an established redevelopment area.

Emerging Small Business Development (ESBD): Not Applicable.

Respectfully Submitted by: L F Sainz
Laura Sainz, Senior Project Manager

Approved by: Leslie Fritzsche
Leslie Fritzsche
Downtown Development Manager

Recommendation Approved:

GFVina
Gustavo F. Vina
Assistant City Manager

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Attachment A – Letter of Support

July 18, 2006

The Honorable Ira Ruskin, Chair and Members
California Assembly Environmental Safety and Toxic Materials Committee
State Capitol
Sacramento, CA 95814

RE: SUPPORT SB 354 (Amended June 15, 2006)

Dear Chairman Ruskin and Members,

I am writing on behalf of the City of Sacramento to express our support for SB 354.

The City of Sacramento is in full support of SB 354. We believe it responds to the critical need to redevelop Brownfield sites. However, in its implementation, the exclusion of sites where there is ongoing regulatory oversight activity (Health and Safety § 25401.1 (h)(2)(E-G)) has been an obstacle to constructively putting underutilized and contaminated urban properties back into productive use. We support this amendment for the following reasons:

- **The bill will allow municipalities to implement CLERRA in collaboration with oversight agencies for the mutual benefit of all stakeholders.** Part of Cal/EPA's mission is to discover "mutually beneficial ways to involve investors in the future of these polluted properties." SB 354 achieves this goal by ensuring that, when a city has a reuse plan for an enforcement site, the site's cleanup is completed as efficiently and quickly as possible, while remaining protective of human health and the environment.

- **The bill supports Cal/EPA's Brownfields mission by focusing the agency's limited resources on sites that have the most potential for becoming productive community assets.**

- **CLERRA is modeled after the Polanco Act, a redevelopment agency tool which does not contain the restriction this amendment seeks to remove.** The Polanco Act has been used successfully multiple times by redevelopment agencies to partner with oversight agencies on preparing enforcement sites for beneficial reuse.

We greatly appreciate Senator Escutia's efforts and offer our assistance with SB 354 to create legislation that will help remove health hazards, stimulate investment in underserved communities, and provide sites for new housing in areas which already have the necessary infrastructure to support such development.

Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

cc: Senator Martha Escutia
Senator David Cox
Senator Deborah Ortiz
Assembly Member Dave Jones
Assembly Member Alan Nakanishi
Assembly Member Roger Neillo
Members of the Sacramento City Council
David Jones, Emanuel Jones and Associates

Attachment B - Bill Text

AMENDED IN ASSEMBLY JUNE 15, 2006
AMENDED IN ASSEMBLY MARCH 13, 2006
AMENDED IN ASSEMBLY JUNE 22, 2005
AMENDED IN SENATE MAY 27, 2005
AMENDED IN SENATE APRIL 18, 2005

INTRODUCED BY Senator Escutia

FEBRUARY 16, 2005

An act to ~~add Section 57015 to~~ *amend Section 25401.1 of* the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 354, as amended, Escutia Hazardous ~~substances: Brownfields task force~~ *materials release: remediation.*

Existing law, the California Land Environmental Restoration and Reuse Act (CLERRA), specifies a procedure for the selection of an oversight agency for a property subject to a phase I environmental assessment by representatives of the Department of Toxic Substances Control (department) and the State Water Resources Control Board. The act authorizes a local agency to issue a notice requiring the owner or operator to conduct a phase I environmental assessment of certain property, in response to the release or the threat of a release of a hazardous material and to protect human health and the environment, as specified. The act also authorizes the local agency to require the owner or operator to prepare a preliminary endangerment assessment under specified conditions and require or initiate an investigation and remedial action. The act defines the term "property" as meaning real property, but excludes from that definition, among other things, a site that is or becomes subject to a specified enforcement action or order issued by a California regional water quality control board (regional board) or a specified enforcement action by the department; a site that is or becomes subject to a corrective action requirement or for which a no-further action determination has been issued by a regional board or a local oversight program as specified, unless a specified finding is made; a site that is or becomes subject to a corrective action order issued as specified; and a site that is or becomes authorized or permitted as specified for the treatment, storage, or disposal of hazardous waste.

This bill would delete those exclusions from the definition of "property" in the act, and would thus include in the act, as "property," a site that is described in one of those exclusions. The bill also would correct an erroneous cross-reference.

~~Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release. Existing law requires the administering agency to supervise the site investigation and remedial action conducted by the responsible party and, upon determining that the site investigation and remedial action has been satisfactorily completed, to issue a certificate of completion to the responsible party.~~

~~This bill would require the agency to establish a Task Force on Brownfields Redevelopment, which would be composed of specified persons with substantial demonstrated experience and expertise with the redevelopment of Brownfields properties from the public, private, and nonprofit sectors, appointed by the Governor, the President pro Tempore of the Senate, and the Speaker of the Assembly.~~

~~The bill would require the task force to provide information to the agency on the effectiveness of existing laws, regulations, and administrative remedies relating to the state's site cleanup oversight programs, Brownfield cleanup and redevelopment funding programs, and liability relief mechanisms available to Brownfield redevelopers, and to identify and evaluate legislative, regulatory, or administrative proposals that would improve opportunities for Brownfield redevelopment.~~ -

~~The bill would require the agency to convene a meeting of the task force on or before May 5, 2007, and would require the task force to submit recommendations to the Legislature and the agency on or before May 4, 2008.~~ -

~~The bill would require these provisions to be implemented through existing state resources, would require the agency to provide staff support to the task force, up to a specified amount, and would allow the agency to apply for, accept, and spend any grants and gifts from any source, public or private, to implement the bill.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25401.1 of the Health and Safety Code is amended to read:

25401.1. For purposes of this chapter, the following terms have the following meanings:

(a) "Department" means the Department of Toxic Substances Control.

(b) "Hazardous material" means a substance or waste that because of its physical, chemical, or other characteristics may pose a risk of endangering human health or safety or of degrading the environment. "Hazardous material" includes, b ut is not limited to, all of the following:

(1) A hazardous substance, as defined in Section 25281 or 25316.

(2) A hazardous waste, as defined in Section 25117.

(3) A waste, as defined in Section 13050 of the Water Code or as defined in paragraph (2) of subdivision (b) of Section 101075.

(c) "Local agency" means the local department, office, or other agency of a city or county designated pursuant to subdivision (a) of Section 25401.2.

(d) "Oversight agency" means the department or the regional board, as appropriate, that oversees a site investigation and remedial action pursuant to this chapter.

(e) "Person" means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation, including, but not limited to, a government corporation. "Person" also includes ~~any~~ *a* city, county, city and county, district, commission, or the state, or ~~any~~ *a* department, agency, or political subdivision thereof, ~~any~~ *an* interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.

(f) "Phase I environmental assessment" means a preliminary assessment of a property to determine whether there has been, or may have been, a release of hazardous material on or near the property, based on reasonably available information about the property and the area in its vicinity. A phase I environmental assessment may include, but is not limited to, a review of public and private records of current and historical land uses, historical aerial photographs of

the property and the area in its vicinity, relevant files of federal, state, and local agencies, regulatory correspondence, records of prior releases of hazardous materials and environmental reports, database searches, visual and other surveys of the property, and interviews with available current and previous owners and operators of the property. A phase I environmental assessment does not require sampling or testing on or around a property.

(g) "Preliminary endangerment assessment" means an activity that is performed to determine whether current or past hazardous material management practices or waste management practices have resulted in a release or threatened release of hazardous materials that pose a threat to public health or the environment. A preliminary endangerment assessment shall be conducted in a manner that complies with the guidelines published by the department entitled "Preliminary Endangerment Assessment: Guidance Manual," and that evaluates whether ~~any~~ *a* hazardous material has been discharged, threatens to discharge, or is discharging, to waters of the state. A preliminary endangerment assessment requires sampling and analysis of a property, a preliminary determination of the type and extent of hazardous materials release or threatened release on contamination of the property, and a preliminary evaluation of the risks that hazardous materials contamination of the property may pose to public health or the environment, including waters of the state.

(h) (1) "Property" means real property, as defined in Section 658 of the Civil Code.

(2) "Property" does not include any of the following:

(A) A site listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) or proposed for, and ranked as, qualifying for this list.

(B) A site on the list maintained by the department pursuant to Section 25356.

(C) An active or former federal military base or property that is or was owned by ~~any~~ *a* department, agency, or instrumentality of the United States.

(D) A property for which a no-further-action determination has been issued by the department or a regional board, under applicable statutes or regulations.

~~(E) A site that is, or becomes, subject to an enforcement action or order issued by a regional board pursuant to Division 7 (commencing with Section 13000) of the Water Code, or an enforcement action by the department pursuant to Chapter 6.5 (commencing with Section 25100) or Chapter 6.8 (commencing with Section 25300).~~

~~(F) A site that is, or becomes, subject to a corrective action requirement, or for which a no-further-action determination has been issued, by a regional board or a local oversight program pursuant to Section 25297.1 or Chapter 6.75 (commencing with Section 25299.10), unless the local agency makes one of the findings described in subdivision (b) of Section 25401.3 for a hazardous material other than petroleum.~~

~~(G) A site that is, or becomes, subject to a corrective action order issued pursuant to Section 25187, or a site that is, or becomes, authorized or permitted pursuant to Chapter 6.5 (commencing with Section 25100) for the treatment, storage, or disposal of hazardous waste. (H)~~

(E) A site that is, or becomes, subject to a response or cleanup operation under Chapter 7.4 (commencing with Section

8670.1) of Division 1 of Title 2 of the Government Code. -
~~(I)~~
(F) A site that is, or becomes, subject to an order for corrective action issued pursuant to Part 5 (commencing with Section 45000) of Division 30 of the Public Resources Code. -
~~(J)~~
(G) A site located within a redevelopment area established pursuant to Division 24 (commencing with Section 33000).
~~(K)~~
(H) A site that is larger than five acres of contiguous property under the same ownership, unless the site is an infill site, as defined in Section ~~21061.0.5~~ *21061.3* of the Public Resources Code.
(i) For purposes of this subparagraph, a "qualified urban use," as defined in Section 21072 of the Public Resources Code, includes an industrial use.
(ii) For purposes of this subparagraph, a parcel is adjoining or immediately adjacent to the site, as required by subdivision (a) of Section ~~21061.0.5~~ *21061.3* of the Public Resources Code, if the parcel is separated from the site only by an improved public right-of-way. ~~(L)~~
(I) A site that is owned by ~~any~~ *a* state or local public agency.
~~(M)~~
(J) A site that is being used for productive agriculture. ~~(N)~~
(K) A site for which the owner or operator, within 60 days following receipt of a notice from a local agency issued pursuant to Section 25401.3 or 25401.4, enters into a voluntary agreement with an oversight agency to commence and complete a site investigation and remediation of the property under that oversight agency's oversight and jurisdiction. ~~(O)~~
(L) A site for which the owner or operator, within 60 days following receipt of a notice from a local agency issued pursuant to Section 25401.3 or 25401.4, requests the designation of an administering agency to oversee a site investigation and remedial action at the site pursuant to Chapter 6.65 (commencing with Section 25260). ~~(P)~~
(M) Property that is the subject of continuous expansion or improvement, and is owned or operated by an operating industrial or commercial activity. ~~(Q)~~
(N) Residential property with an owner-occupied dwelling. ~~(R)~~
(O) Property occupied by a family-owned business that has no employees other than members of the family or a business that has no employees other than the owners. ~~(S)~~
(P) Property that is dedicated to a public use by a public utility, as provided in Section 1007 of the Civil Code.
~~(T)~~
(Q) Property acquired, to be acquired or proposed for use as a schoolsite, prior to its occupancy for a school, if a school district has entered into an enforceable environmental oversight agreement with the department to conduct a preliminary endangerment assessment or other response action at the property pursuant to Section 17213.1 of the Education Code. The exclusion provided in this subparagraph shall not apply if the school district determines, after entering into that agreement, not to pursue the use of the site

as a school, or if the agreement between the department and the school district is terminated or expires.

(i) (1) "Qualified person" means one of the following:

(A) For activities conducted under Section 25401.6, an environmental assessor, as defined in paragraph (2).

(B) For activities conducted under Section 25401.7, an environmental assessor, as defined in paragraph (2), who also has demonstrated expertise in hazardous materials site investigation and cleanup.

(2) "Environmental assessor" means a class II environmental assessor registered by the Office of Environmental Health Hazard Assessment pursuant to Chapter 6.98 (commencing with Section 25570), a professional engineer registered in this state, a geologist registered in this state, a certified engineering geologist registered in this state, or a licensed hazardous substance contractor certified pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. A licensed hazardous substance contractor shall hold the equivalent of a degree from an accredited public or private college or university or from a private postsecondary educational institution approved by the Bureau for Private Postsecondary and Vocational Education with at least 60 units in environmental, biological, chemical, physical, or soil science, engineering geology, or environmental or public health, or a directly related science field. In addition, ~~any~~ *a* person who conducts a phase I environmental assessment shall have at least two years of experience in the preparation of those assessments and ~~any~~ *a* person who conducts a preliminary endangerment assessment shall have at least three years of experience in conducting those assessments.

(j) "Reasonably foreseeable uses" means land uses that are authorized under the applicable general plan and zoning code, and any additional uses that are identified by the local land use agency as reasonably foreseeable uses for a property at the time the preliminary endangerment assessment for that property is being prepared pursuant to Section 25401.4 or 25401.6.

(k) "Remedial action" means a remedial action, as defined in subdivision (g) of Section 25260.

(l) "Remediation plan" means a proposal to complete a site investigation and a remedial action on a property, a schedule for the conduct of that site investigation and remedial action, the method for the oversight of those actions, and the state and local laws, ordinances, regulations, and standards that are applicable to those actions, for approval by the oversight agency pursuant to Section 25401.5 or 25401.7.

(m) "Regional board" means a California regional water quality control board.

(n) "Release" has the same meaning as defined in Section 25320, but with respect to a hazardous material.

(o) "Responsible party" means a "responsible party" or "liable person" as defined in subdivision (a) of Section 25323.5, or a person subject to an order pursuant to subdivision (a) of Section 13304 of the Water Code.

(p) "Site investigation" has the same meaning as defined in Section 25260.

(q) "Written determination of completion" means a document issued by the oversight agency that certifies that a remedial action carried out pursuant to this chapter has been satisfactorily completed, in

accordance with an approved remediation plan, that applicable remedial action standards and objectives have been achieved, that financial assurance for all operation and maintenance activities, if applicable, has been obtained, and that the property for which the written determination of completion is issued does not pose a significant risk to human health or the environment, does not impact the beneficial uses of waters of the state, and is in a condition that allows it permanently to be used for its reasonably foreseeable uses without any significant risk to human health or any significant potential for future environmental damage. The written determination of completion shall also specifically describe any conditions, restrictions, or limitations imposed on the site, including financial assurance, if applicable, and any land use controls placed on the property. The written determination of completion shall specifically identify the locations where the remediation plan that formed the basis of the determination is kept on file by the oversight agency and the local agency. These files shall be made available to the public upon request. All matter omitted in this version of the bill appears in the bill as amended in Assembly, March 13, 2006 (JR11).

Attachment C - Bill Analysis

Date of Hearing: June 27, 2006

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS
Ira Ruskin, Chair
SB 354 (Escutia) - As Amended: June 15, 2006

SENATE VOTE : Not relevant

SUBJECT : Hazardous Materials Release: Remediation

SUMMARY : Removes exclusions for certain types of sites from the definition of 'property' under the California Land Environmental Restoration and Reuse Act (CLERRA). Specifically, this bill :

1)Deletes exclusions from the definition of "property" in the act, and would thus include in CLERRA, as "property," a sites that are under the oversight of a regional water quality control board (RWQCB) or the Department of Toxic Substances Control (DTSC) including:

a) A site that is, or becomes, subject to an enforcement action or order issued by a regional board pursuant to Division 7 (commencing with Section 13000) of the Water Code, or an enforcement action by the department pursuant to Chapter 6.5 (commencing with Section 25100) or Chapter 6.8 (commencing with Section 25300).

b) A site that is, or becomes, subject to a corrective action requirement, or for which a no-further-action determination has been issued, by a regional board or a local oversight program pursuant to Section 25297.1 or Chapter 6.75 (commencing with Section 25299.10), unless the local agency makes one of the findings described in subdivision (b) of Section 25401.3 for a hazardous material other than petroleum.

c) A site that is, or becomes, subject to a corrective action order issued pursuant to Section 25187, or a site that is, or becomes, authorized or permitted pursuant to Chapter 6.5 (commencing with Section 25100) for the treatment, storage, or disposal of hazardous waste.

2)Corrects an erroneous cross-reference

EXISTING LAW: The CLERRA:

1)Specifies a procedure for the selection of an oversight agency for a property subject to a phase I environmental assessment by representatives of DTSC and the State Water Resources Control Board (SWRCB).

2)Authorizes a local agency to issue a notice requiring the owner or operator to conduct a phase I environmental

assessment of certain property, in response to the release or the threat of a release of a hazardous material and to protect human health and the environment.

3)Authorizes the local agency to require the owner or operator to prepare a preliminary endangerment assessment under specified conditions and require or initiate an investigation and remedial action.

4)Defines the term "property" as meaning real property, but excludes from that definition, among other things:

a) a site that is or becomes subject to a specified enforcement action or order issued by a RWQCB or a specified enforcement action by DTSC;

b) a site that is or becomes subject to a corrective action requirement or for which a no-further-action determination has been issued by a RWQCB or a local oversight program.

c) a site that is or becomes subject to a corrective action order;

d) a site that is or becomes authorized or permitted as specified for the treatment, storage, or disposal of hazardous waste.

FISCAL EFFECT : Unknown. The content of this bill was different when heard by the Senate Appropriations Committee.

COMMENTS :

According to the author, this bill would encourage the cleanup of more brownfield sites by allowing more types of properties to participate in the process established by CLERRA. These properties, sites that are under an ongoing regulatory oversight

by DTSC or the RWQCB, would now be eligible to participate and benefit from the tools offered through CLERRA. There are some concerns that this bill could raise issues with a local agency 'taking over' a site that is already in a oversight mode with DTSC or the RWQCB and disrupting agreements and orders that were likely heavily negotiated with the property owner. The author and supporters contend that because of the nature of CLERRA, and the requirement that DTSC or the RWQCB has oversight authority over all cleanups under the program, that coordination is inherent and that local agency would help, not hinder, the existing agreements along to a speedier resolution.

Suggested amendment : On page 7, lines 24-25 the bill refers to an environmental assessor registered with the Office of Environmental Health Hazard Assessment. However, the DTSC registers environmental assessors; this reference should be corrected.

REGISTERED SUPPORT / OPPOSITION :

Support

Center for Creative Land Recycling
City of Oakland
City of San Diego

Opposition

None on file

Analysis Prepared by : Caroll Mortensen / E.S. & T.M. / (916) 319-396

REPORT TO LAW & LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2671

5

STAFF REPORT
July 18, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Legislative Position: Support AB 2782 (Jones) City-State land exchanges and Children's Museum

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt a support position on AB 2782 (Jones).

Contact: Bob Overstreet, Director of Parks and Recreation, 808- 1190

Presenters: Bob Overstreet, Director of Parks and Recreation

Department: Parks and Recreation

Division: Administration

Organization No: 4511

Summary:

The request by Assembly Member Jones for a support letter could not be heard by the Law and Legislation Committee in time to meet the Senate Committee on Natural Resources and Water meeting schedule. Therefore, the Mayor, in her capacity, sent a letter supporting the concept and intent of the Bill. Assembly Member Dave Jones has requested that AB 2782 come before the Law and Legislation Committee for consideration of a formal support position and to provide an opportunity for public discussion.

This report provides information on AB 2782 introduced by Assembly Member Dave Jones. This bill would authorize the State Department of Parks and Recreation (State Parks and Recreation) to exchange, with the City of Sacramento, specified properties owned by State Parks and Recreation for City-owned property located throughout the City. This bill would also authorize State Parks and Recreation to enter into an operating agreement with a qualified nonprofit organization for the development and operation of a children's museum on the 1849 scene site in Old Sacramento State Historic Park.

Committee/Commission Action: None

Background Information:

AB 2782 would authorize the Director of the State Department of Parks and Recreation to exchange or sell to the City specified property in Old Sacramento, the Docks Area, the Railyards Redevelopment Area, and the Freeport area near the Conlin Youth Sports Complex. The State-owned properties included in the bill are part of a package of land exchanges between the City and State Parks and Recreation assembled by staff from both agencies over the last several years and represent an ongoing partnership between State Parks and Recreation and the City of Sacramento on development projects within the Sacramento area. State Parks and Recreation has chosen to pursue these exchanges via AB 2782 rather than through the State General Services Department's (DGS) standard surplus property process as the surplus process does not accommodate this type of exchange between a state department (besides DGS) and the City.

The proposed land exchanges seek to adjust property ownership between the City and the State and reallocate property to facilitate the implementation of specific projects by each agency. For example, the City will receive from the State fee title to the R Street trestle/bridge for conversion to a bike/pedestrian bridge using grant funds already obtained by the City. The City will also receive fee title to three parcels in the Docks Area and one in the Railyards Area, both of which will facilitate those redevelopment projects. And the City will receive two properties in Old Sacramento that are primarily used and maintained by the City anyway. State Parks and Recreation will receive from the City: a permanent easement on the rail line on which the State's excursion train currently operates; a Freeport-area parcel needed by the State for development of an additional depot to support expansion of the excursion train program; and the land under the State-owned Central Pacific Freight Depot building in Old Sacramento.

As part of the greater land exchange package, permanent easement or fee title for seven (7) City-owned properties will be transferred to State Parks and Recreation. These parcels are not included in AB 2782 as the City does not need approval from the State Legislature to dispose of its property. The complete set of property exchanges including easements needed in the Docks Area will be captured in a Memorandum of Understanding (MOU) between the City and the State, currently being drafted by staff. It is anticipated that the MOU will be presented to the City Council for approval in August 2006.

Details of each parcel to be transferred from State Parks and Recreation to the City via AB 2782, as well as the City-owned properties to be transferred to the State, are outlined in Attachment B.

The goals of the land exchange package include:

- Continued progress toward successful implementation of the Sacramento Riverfront Master Plan (Master Plan) and achievement of the Master Plan goals;
- Redevelopment of the Docks Area as a mixed-use neighborhood that provides: public access to the riverfront; pedestrian and bicycle linkages that integrate the

area with the adjacent waterfront and downtown; and high-quality public space including a riverfront parkway;

- Continued improvement of bicycle and pedestrian access throughout the city, including creation of a bike trail and walking path across the R Street Bridge over I-5 and completion of the Freeport Shores Bike Trail, which provides access to the Bill Conlin Youth Sports Complex;
- Development of a designated Heritage Trail along the former Walnut Grove Branch Line to the town of Locke and into the Sacramento River Delta, consistent with the adopted 2010 City/County Bikeway Master Plan and State Parks Master Plan for the development of the Railroad Museum; and
- Continued improvement and enhancement of the Old Sacramento Historic District, the Old Sacramento State Historic Park, and the California State Railroad Museum

AB 2782 also authorizes the California State Department of Parks to enter into an operating agreement with the Sacramento Children's Museum Board to develop and operate a children's museum in the Old Sacramento State Historic Park in Sacramento, California. The proposed site of the museum in Old Sacramento, known as the 1849 Scene, has been mostly vacant for 30 years. In the early 1970's, State Parks created a development plan that recommended re-building structures that existed on that site in 1849, including two hotels, a theatre, and more. No additional funds have been appropriated for development of this site. State Parks has not requested new funding to develop this property, nor do they plan to request funding in the near future.

Financial Considerations:

Prior to any properties actually changing ownership, the City and State will complete all necessary property appraisals, environmental assessments, and related due diligence. It is estimated that when the appraised value of the properties is calculated and the exchanges tallied, the State properties being transferred to the City will total a higher value than the City properties being transferred to the State. To balance the exchange, the City will place in escrow an amount equal to the difference in value between the State-owned properties and the City-owned properties. These funds will be used to acquire from Regional Transit property rights (permanent easement or fee title) to the former Meadowview Corridor rail line. The source of funding will be tax increment from the downtown redevelopment area budgeted for development of the Docks area.

Environmental Considerations: None

Policy Considerations:

The property exchanges and the development of a Children's Museum will help both the City and the State achieve important park and economic development projects that will fulfill long term public service objectives.

Emerging Small Business Development (ESBD): None

Approved by: _____
Robert G. Overstreet II
Director of Parks and Recreation

Recommendation Approved:

_____
GUSTAVO F. VINA
Assistant City Manager

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Pg	23	Attachment F – AB 2782 Bill Analysis

ATTACHMENT A

OFFICE OF THE MAYOR

HEATHER FARGO
MAYOR

CITY OF SACRAMENTO
CALIFORNIA

June 19, 2006

The Honorable Dave Jones
California State Assembly
State Capitol, Room 3126
Sacramento, CA 95814

Support: Assembly Bill 2782 – Relating to Parks

Dear ~~Assembly Member~~ Dave Jones:

I am writing on behalf of the City of Sacramento to express our support of AB 2782. This bill would authorize the California Department of Parks and Recreation to enter into a Memorandum of Understanding with the City of Sacramento for the exchange of real property for public purposes. This will enable the City and the State to achieve long term public service objectives. I would like to thank everyone who worked together to make this happen.

I am very excited about a children's museum in Sacramento, and I strongly support this effort. Sacramento's children deserve access to the education and enrichment opportunities that a facility such as this would provide. I would especially like to thank you, Assembly Member Jones, for your hard work and leadership on this legislation. The City is very grateful for your work facilitating the City and State's land swaps for important park and economic development projects.

Sincerely,

Heather

HEATHER FARGO
Mayor
City of Sacramento

cc: Senator David Cox
Senator Deborah Ortiz
Assembly Member Alan Nakanishi
Assembly Member Roger Niello
Members of the Sacramento City Council
David Jones, Emanuels Jones and Associates

CITY HALL - FIFTH FLOOR
915 I STREET, SACRAMENTO, CA 95814-2604
PH 916-808-5300 • FAX 916-264-7680 hfargo@cityofsacramento.org

Proposed property exchanges between City of Sacramento and California Department of Parks and Recreation
June 29, 2006

State-owned parcels proposed to be transferred to City via amendment to AB 2782:

Parcel	Location	Description
Parcel 1 006-0243-010	R Street Bridge	• State Parks to transfer fee title to City • City to convert to bike/pedestrian bridge • Grant to City from CalTrans for bike/pedestrian improvements to bridge will expire in approx. two years
Parcels 2 and 3 APN 031-0010-010 APN 031-0010-005	Freeport area, near Conlin Youth Sports Complex	• State Parks to transfer to City permanent easement on a portion of two parcels and fee title to a different portion of same parcels • City to construct Freeport Shores Bikeway to complete Sacramento River Bike Trail and connect to Conlin Youth Sports Complex
Parcels 4, 5, and 6 APN 009-0012-048 APN 009-0012-058 APN 009-0012-059	Docks Redevelopment Area	• State Parks to transfer fee title to City • Needed for successful redevelopment of Docks Area • State Parks to retain easement for operation of excursion train
Parcel 7 (no APN)	Pony Express Plaza in Old Sacramento (grassy area around Pony Express memorial)	• State Parks to transfer fee title to City • City's Old Sacramento Management Division uses the area frequently and owns/maintains surrounding streets, so makes sense for City to assume ownership of this small parcel

Proposed property exchanges between City of Sacramento and California Department of Parks and Recreation

Parcel	**Location**	**Description**
Parcel 8 (no APN)	Riverfront park area at the foot of I Street in Old Sacramento	• City's Old Sacramento Management Division already maintains the area under agreement with State Parks, so makes sense for City to assume ownership of this small area
Parcel 9 (APN to be determined)	Railyards riverfront - Four (4) acres of riverfront property in Railyards redevelopment area	• State Parks to transfer fee title to City • Necessary for implementation of Railyards Specific Plan
Parcel 10 APN 009-0030-036	Viaduct under I-5 near Miller Park (leads to Setzer Forest Products)	• State Parks to transfer fee title to City at such time rail line is abandoned • City to use parcel for bike/pedestrian access to the river, especially for to complement new downtown residential development

City-owned parcels to be transferred to State – NOT INCLUDED IN AB 2782

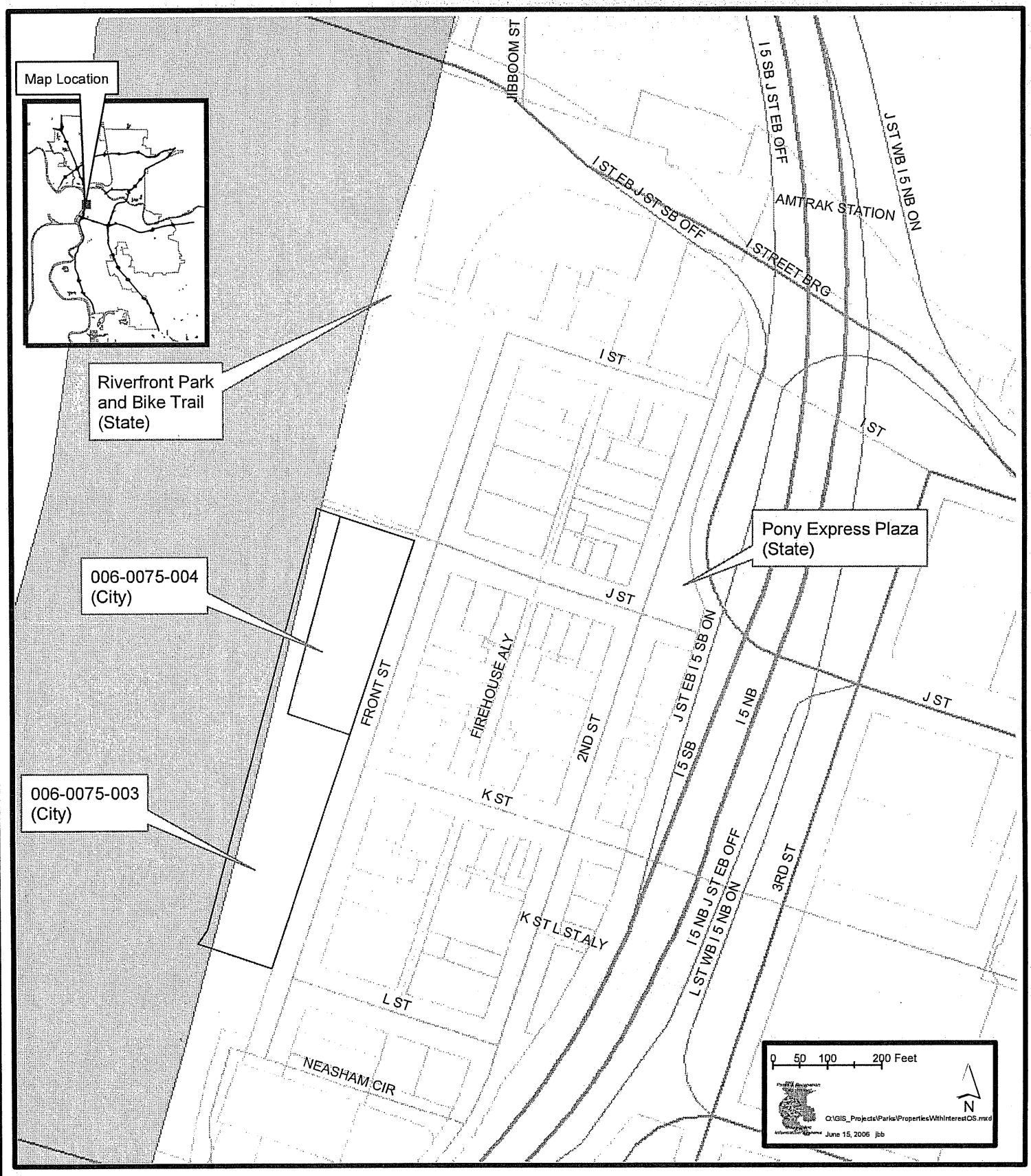
(City does not need authority from State Legislature to buy/sell/swap City-owned property)

Parcel	Location	Description
APN 012-0010-035 APN 012-0321-010 APN 017-0031-006 APN 017-0010-042	Rail line from south end of Miller Park to Riverside Bridge	• City to grant permanent easement to State Parks for operation of excursion train
APN 017-0010-048	Riverside Bridge	• City to transfer fee title to State Parks • Needed by State for operation of excursion train • City to retain easement for bike/pedestrian trail
APN 031-0010-003	Near Klotz Ranch	• City to transfer fee title to State Parks • State Parks to develop RR station at this location for excursions along the river to Hood and back
APN 006-0075-004	Central Pacific Freight Depot (AKA Public Market) in Old Sacramento	• City to transfer fee title to State Parks • State Parks already owns the building on this site

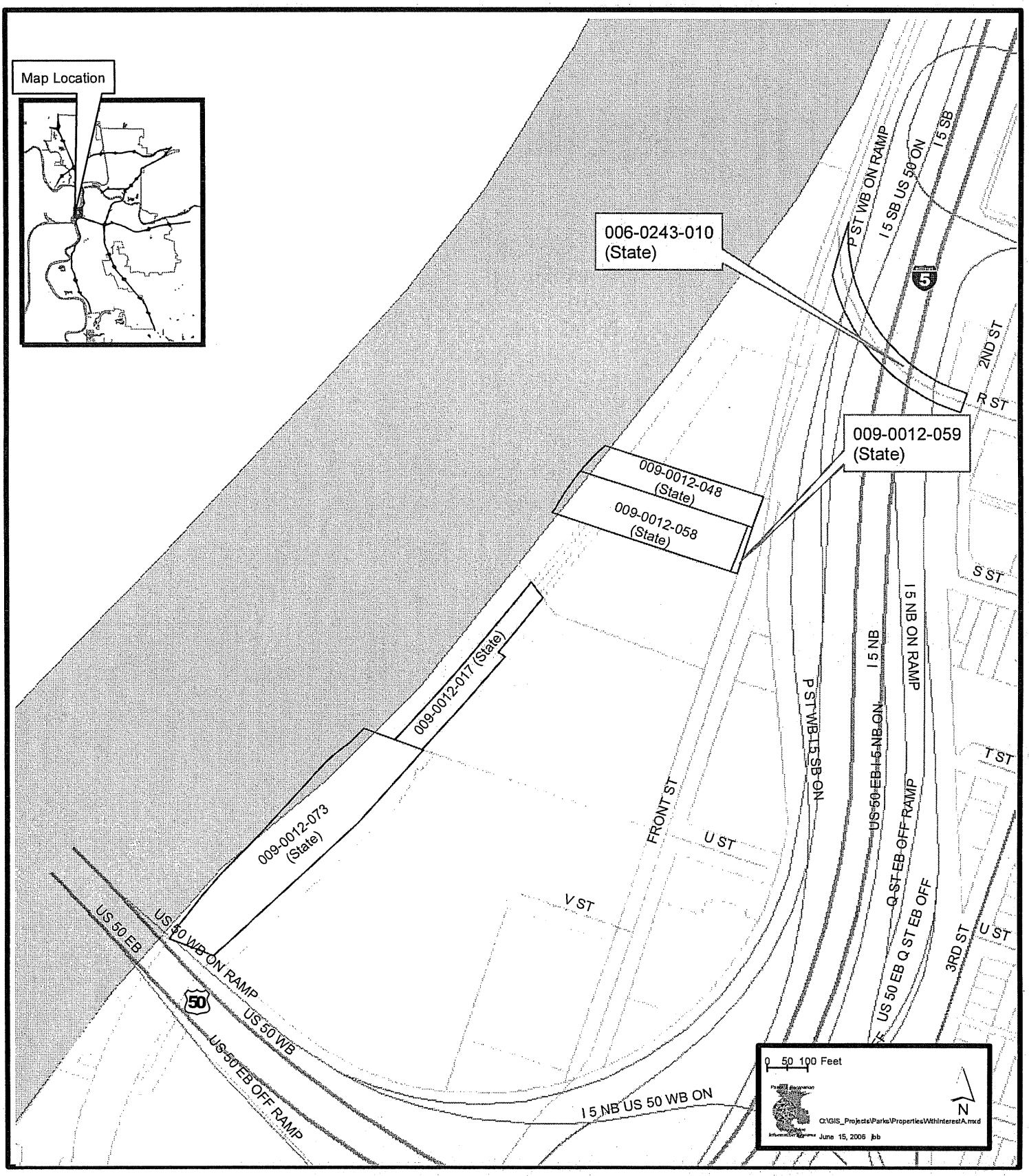
ATTACHMENT C

City of Sacramento
Department of Parks and Recreation

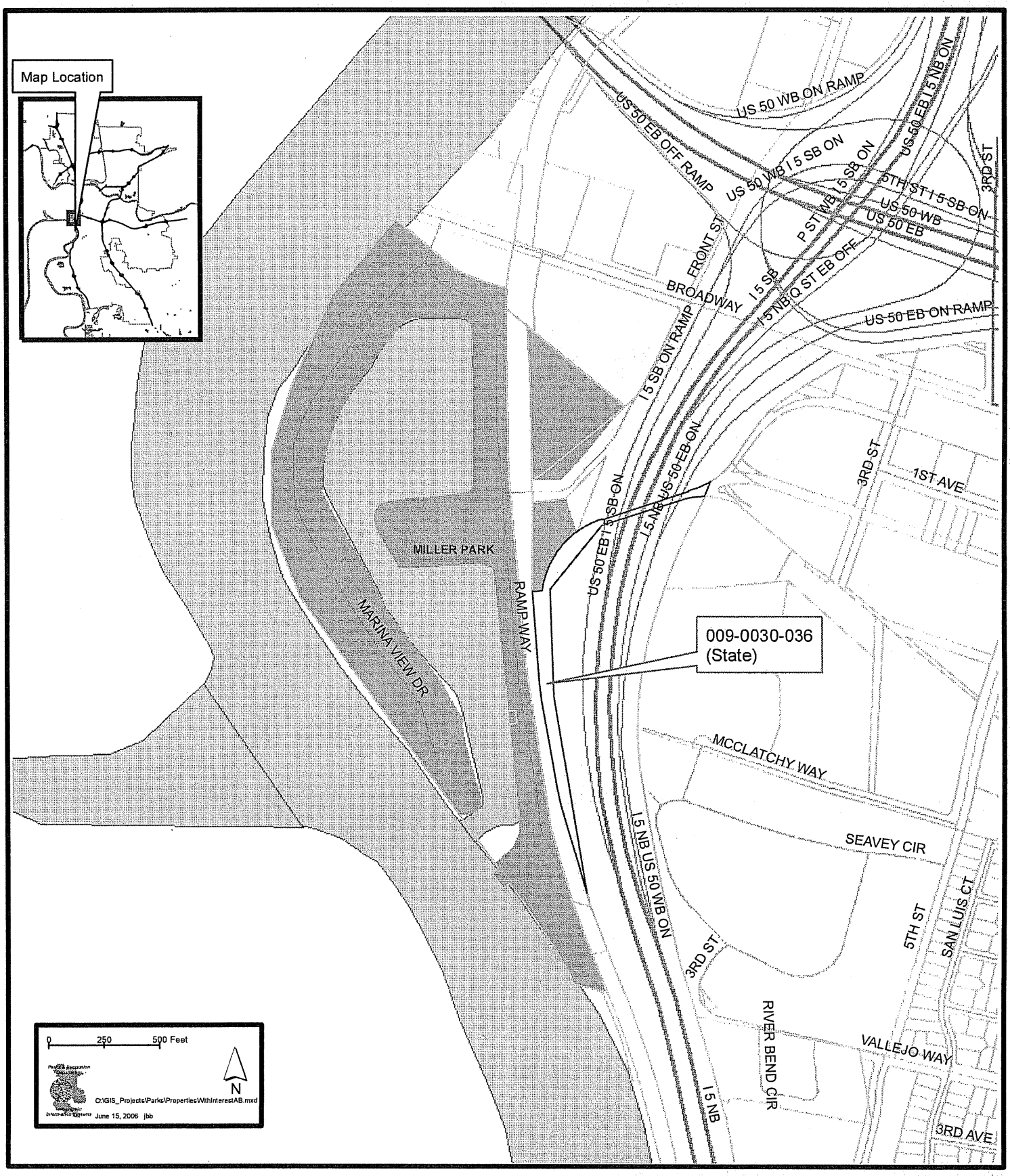
Properties With Interest - Old Sacramento



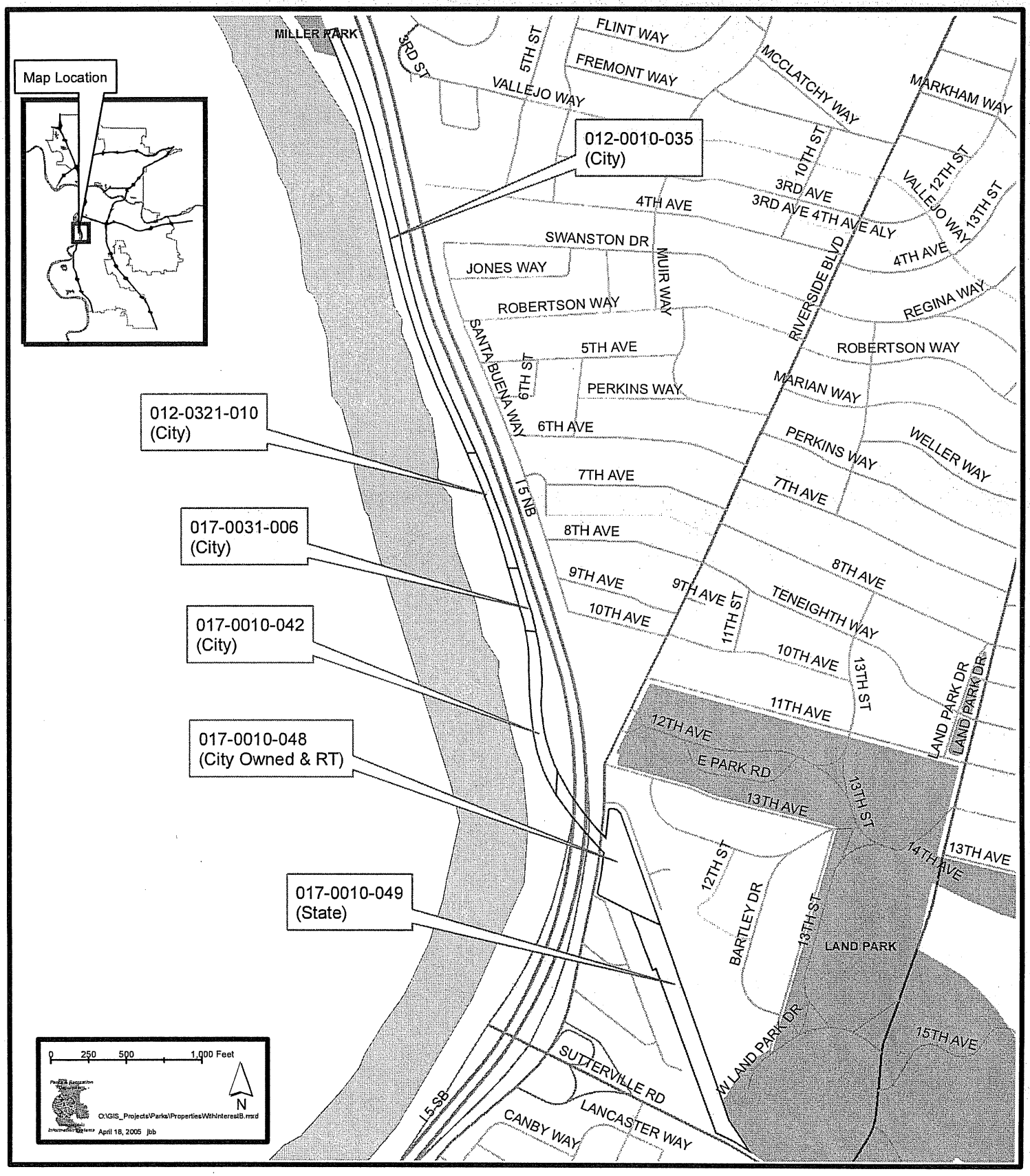
City of Sacramento
Department of Parks and Recreation
Properties With Interest - A



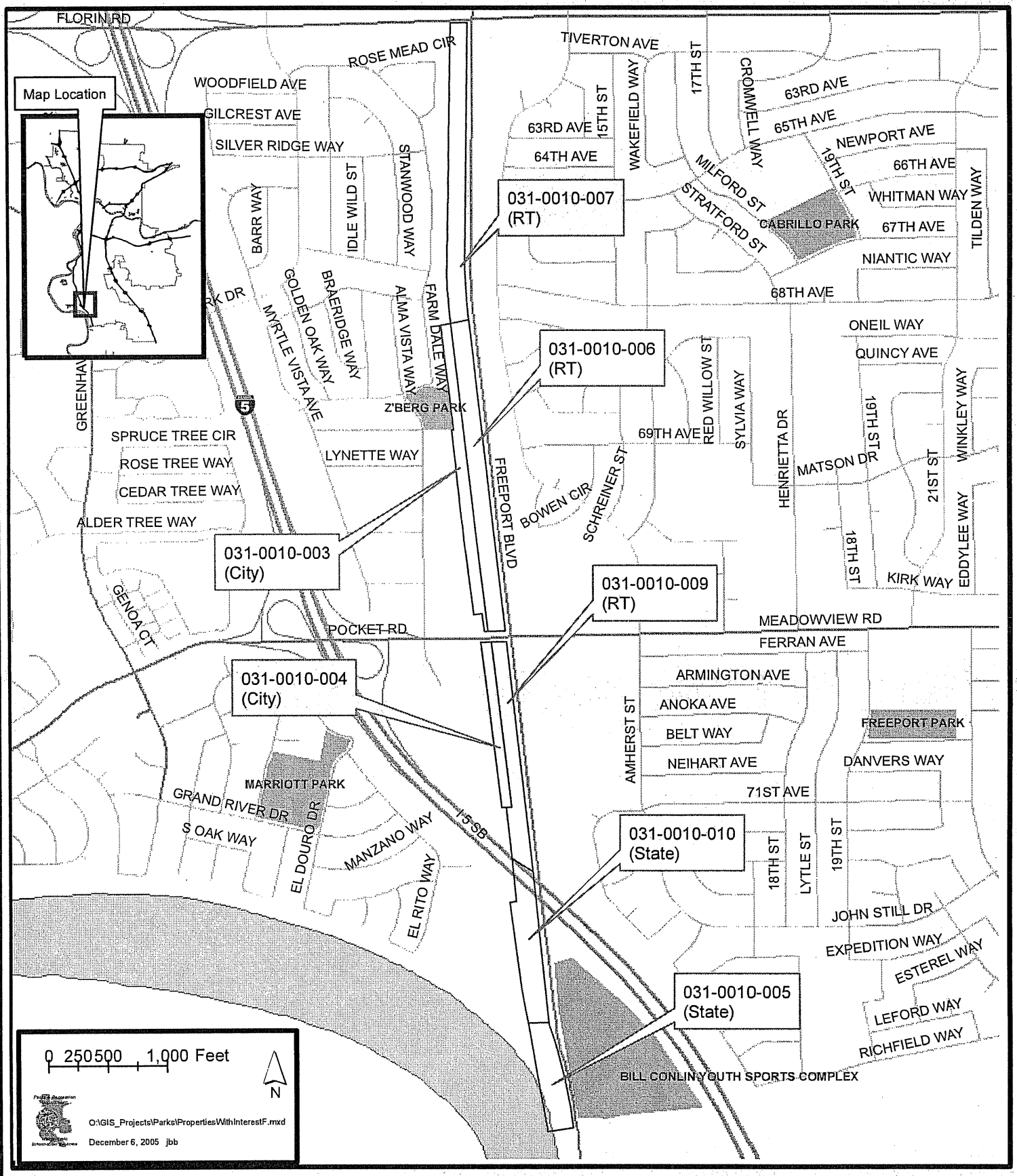
City of Sacramento
Department of Parks and Recreation
Properties With Interest - AB



City of Sacramento
Department of Parks and Recreation
Properties With Interest - B



City of Sacramento
Department of Parks and Recreation
Properties With Interest - F



ATTACHMENT D

MEMORANDUM OF UNDERSTANDING
BETWEEN THE STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, AND THE CITY OF SACRAMENTO DEPARTMENT OF PARKS AND RECREATION

This Agreement is made and effective as of XXXX by and between the City of Sacramento, a municipal corporation, 915 "I" Street, Sacramento, CA 95814 ("City"); and the State of California, Department of Parks and Recreation, a division of the State of California, Capital District, Old Sacramento State Historic Park, 111 I Street, Sacramento, California 95814 ("State Parks").

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Recitals

WHEREAS the City and the State have mutual interest in trading properties for the public benefit;

AND WHEREAS each entity desires to achieve a fair and balanced exchange based upon the Fair Market Value of the parcels and will offset an unbalanced exchange via other considerations such as public benefit achieved;

AND WHEREAS the City and the State wish to continue progress toward successful implementation of the Sacramento Riverfront Master Plan and achievement of the Master Plan goals to: create riverfront neighborhoods and districts; establish a web of connectivity on the riverfront; strengthen the green backbone of the community; and make places for celebration;

AND WHEREAS the City and the State are committed to improvement and expansion of recreational opportunities within the Sacramento area for residents and visitors alike;

AND WHEREAS, the City's redevelopment goal for the Docks Area is a mixed-use neighborhood that provides: public access to the riverfront; pedestrian and bicycle linkages that integrate the area with the adjacent waterfront and downtown; and high-quality public space including a riverfront parkway;

AND WHEREAS, the City is committed to continued improvement of bicycle and pedestrian access throughout the city, including creation of a bike trail and walking path across the R Street Bridge over I-5 and completion of the Freeport Shores Bike Trail, which provides access to the Bill Conlin Youth Sports Complex;

AND WHEREAS, State Parks is pursuing development of a designated Heritage Trail along the former Walnut Grove Branch Line to town the of Locke and into the Sacramento River Delta, consistent with the adopted 2010 City/County Bikeway Master Plan and State Parks Master Plan for the development of the Railroad Museum;

AND WHEREAS, State Parks and the City wish to continue improvement and enhancement of the Old Sacramento Historic District, the Old Sacramento State Historic Park, and the California

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State Railroad Museum;AND WHEREAS City and State agree to complete due diligence as related to the exchange of parcels described herein.

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Obligations

In consideration of the mutual benefits stated above and their mutual obligations, the parties agree as follows:

The City and State Parks will undertake a two-phase effort to transfer or grant, as appropriate to each situation, easements, leases, or fee title to various parcels of land in the areas of Old Sacramento, Docks, former Southern Pacific rail line, and Freeport Reservoir, as described below.

Phase 1:

A. City grants to State Parks right of entry for rail line right-of-way (10 feet from center line of track on each side) for operation of State Parks' excursion train on four (4) parcels located along rail line from the south end of Miller Park to the Riverside Bridge: *APN 012-0010-035, 012-0321-010, 017-0031-006, and 017-0010-042.*

B. City grants to State Parks right of entry on the Riverside Bridge for operation of State Park's excursion train: *APN 017-0010-048.*

C. State Parks grants to City right of entry on the R Street Bridge (10 feet from center line of track) for construction of improvements as needed for bike/pedestrian trail project: *APN 006-024-010.*

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D. State Parks grants to City right of entry on a portion of two (2) parcels near Freeport Reservoir for construction of bike/pedestrian trail and utilities: *APN 031-0010-010 and 031-0010-005.*

E. State Parks grants to City right of entry on Docks area parcels *APN 009-0012-017, and 009-012-073.*

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F. City and State Parks agree to work together, and in conjunction with the Sacramento Regional Transit District (RT), to affect the acquisition and preservation of the former RT Meadowview corridor by State Parks and City for public recreation purposes.

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G. State Parks agrees to have the railroad tracks in the Docks Area relocated with all costs paid by the City, if the City deems the relocation is necessary to facilitate the Docks Area redevelopment project.

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H. State Parks agrees to be a party to the Boundary Line Agreement in the Docks Area between the City and the State Lands Commission. Both the City and State Parks agree

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to negotiate the Agreement in an expeditious manner; *APN 009-0012-048, 009-0012-058, 009-0012-073.*

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Phase 2:

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City and State agree to pursue passage of Assembly Bill 2782, introduced by Assembly Member Jones on February 24, 2006, or equivalent legislation, to affect the following exchanges of real property:

A. City grants to State Parks permanent easement for rail line right-of-way (10 feet from center line of track on each side) for operation of State Parks' excursion train on four (4) parcels located along rail line from the south end of Miller Park to the Riverside Bridge: *APN 012-0010-035, 012-0321-010, 017-0031-006, and 017-0010-042.*

B. City transfers to State Parks fee title to the Riverside Bridge: *APN 017-0010-048.* City will retain a permanent recreational easement for bike and pedestrian right-of-way crossing of Interstate 5 on the parcel outside of the existing bridge.

C. State Parks transfers to City fee title to the R Street Bridge: *APN 006-0241-010.*

D. State Parks grants to City permanent easement on a portion of two (2) parcels, and fee title to a different portion of these parcels, near Freeport Reservoir for construction of bike/pedestrian trail and utilities, including permanent easement for railroad crossing for the same bike/pedestrian trail project: *APN 031-0010-010 and 031-0010-005.*

E. City transfers to State Parks fee title to two (2) parcels near Klotz Ranch, along rail line between Freeport Boulevard and I-5: *APN 031-0010-003 and 031-0010-004.*

F. State Parks transfers to City fee title to three (3) parcels in the Docks Area, *APN 009-0012-048, 009-0012-058 and 009-0012-059.* State Parks will retain an easement on parcels *APN 009-0012-048 and 009-0012-058* (10 feet from center line of track on each side) for operation of excursion train.

G. State Parks works with City to modify the existing easement on Docks Area parcels *APN 009-0012-017* and *009-0012-073* to facilitate redevelopment of the Docks Area..

H. City closes I Street in front of State Railroad Museum in Old Sacramento from 2nd Street to alley to motorized vehicles, except for emergency and garbage collection vehicles, for creation of a pedestrian plaza.

I. State Parks transfers to City fee title to "Pony Express Plaza" in Old Sacramento (APN unknown – need some kind of description).

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Deleted: <#>State Parks transfers to City fee title to three (3) parcels in the Docks Area, State Parks will retain easement on these parcels for operation of excursion train (10 feet from center line of track on each side): *APN 009-0012-048, 009-0012-058, and 009-0012-059.*¶

Deleted: <#>State Parks provides to City easements on four (4) parcels in the Docks Area and agrees to relocate the railroad tracks on these parcels, with all costs paid by the City, as necessary to facilitate redevelopment of the Docks Specific Area: *APN 009-0012-017, 009-0012-019, 009-0012-020, and 009-0012-073.* ¶

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J. City transfers to State Parks fee title to Central Pacific Freight Depot (public Market) parcel in Old Sacramento: *APN 006-0075-004.*

K. State Parks transfers to City fee title to Riverfront Park at foot of I Street, along waterfront in Old Sacramento *(APN unknown)*. (**Need better description.)

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State Parks and City will establish provisions to facilitate transfer from State Parks to City fee title to all or part of the parcel that is the viaduct under I-5 near Miller Park at such time that State Parks abandons this parcel; *APN 009-0030-036.*

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L. Any proceeds remaining from these exchanges following an assessment of the Fair Market Value of all parcels will be applied to acquisition of the former RT Meadowview corridor by State Parks and/or City.

Executed in Sacramento, California, as of _____, 2006.
City of Sacramento
By:

_____
Ray Kerridge
City Manager

Approved as to Form:

_____
City Attorney

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State of California
Department of Parks and Recreation
Capital District
By:

_____
Name:
Title:

ATTEST:

_____
CITY CLERK

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AMENDED IN SENATE JUNE 27, 2006

AMENDED IN SENATE JUNE 13, 2006

AMENDED IN ASSEMBLY MARCH 30, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL No. 2782

Introduced by Assembly Member Jones

February 24, 2006

An act to add Sections 5003.16 and 5080.41 to the Public Resources Code, relating to parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 2782, as amended, Jones. State parks: Old Sacramento State Historic Park.

(1) Under existing law, the Department of Parks and Recreation is required to operate, manage, and maintain units of the state park system.

This bill would authorize the Director of the Department of Parks and Recreation, with the approval of the Director of General Services, to exchange with or sell to the City of Sacramento for fair market value specified property located in the Old Sacramento State Historic Park that is a portion of the Old Sacramento Historic District in the City of Sacramento.

(2) Existing law authorizes the Department of Parks and Recreation to enter into an agreement with any agency of the United States, any city, county, district, or other public agency, or any combination thereof, for the care, maintenance, administration, and control of lands for the state park system.

This bill would authorize the department, in addition, to enter into an agreement with a nonprofit organization for the development, improvement, restoration, care, maintenance, administration, and control of a children's museum on the 1849 scene site in Old Sacramento State Historic Park in the City of Sacramento.

The bill would require the department to notify each Member of the Legislature in whose district Old Sacramento State Historic Park is located if it intends to enter into an operating agreement under the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:
3 (a) The 1849 scene site in Old Sacramento State Historic Park
4 in the City of Sacramento is uniquely situated for the
5 development of a Sacramento regional children's museum in that
6 the site is all of the following:
7 (1) Located in the center of the Sacramento region.
8 (2) Located in the heart of the region's downtown and
9 business core.
10 (3) Located in Old Sacramento State Historic ~~State Park~~ *Park,*
11 which is a destination state park and national historic district for
12 tourists from throughout the world.
13 (4) Adjacent to the California State Railroad Museum, which
14 itself is a major regional destination for families and tourists
15 alike.
16 (b) The site is not suitable for any other facility that would
17 address a core mission of the state, and therefore its use for a
18 children's museum would not deprive the state of land that could
19 be used to address core state functions.
20 (c) The state does not provide children's museums as a part of
21 its core mission and therefore the use of the site by a nonprofit
22 organization does not supplant an existing core state mission.
23 SEC. 2. Section 5003.16 is added to the Public Resources
24 Code, to read:
25 5003.16. (a) Notwithstanding the provisions of Division 3
26 (commencing with Section 11000) of Title 2 of the Government
27 Code that relate to the disposition of state-owned real property,

with the approval of the Director of General Services, the director may exchange with or sell to the City of Sacramento for fair market value, upon those terms and conditions and with those reservations and exceptions that in his or her opinion may be in the best interest of the state, all or part of the following described property located in the Old Sacramento State Historic Park that is a portion of the Old Sacramento Historic District in the City of Sacramento:

(1) PARCEL 1 : APN 006-0241-010 (R Street Bridge).

(2) PARCEL 2: APN 031-0010-010 (Freeport).

(3) PARCEL 3: APN 031-0010-005 (Freeport).

(4) PARCEL 4: APN 009-0012-048 (Docks).

(5) PARCEL 5: APN 009-0012-0058 (Docks).

(6) PARCEL 6: APN 009-0012-059 (Docks).

(7) PARCEL 7: APN _____ (Pony Express Plaza, Old Sacramento).

(8) PARCEL 8: APN _____ (Riverfront Park, Foot of I Street, Old Sacramento).

(9) PARCEL 9: APN _____ (Railyards Riverfront).

(10) PARCEL 10: APN 009-0030-036 (Miller Park).

(b) For the purposes of complying with the fair market value requirement of subdivision (a), the City of Sacramento shall be credited for any financial participation it contributes toward a purchase by the state of the surplus Meadowview Corridor property owned by the Sacramento Regional Transit District.

SEC. 3. Section 5080.41 is added to the Public Resources Code, to read:

5080.41. (a) Notwithstanding any provision of this article, the department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, and control of a children's museum on the 1849 scene site in Old Sacramento State Historic Park in the City of Sacramento. The agreement shall include, but is not limited to, the following:

(1) The district superintendent for the department shall provide liaison with the department, the nonprofit organization, and the public.

(2) The children's museum, starting one year after the museum is open to the public, shall annually submit a written report to the department regarding its operating activities during the prior year

and shall make copies of the report available to the public upon request. The report shall include a full accounting of all revenues and expenditures for the children's museum. *The report also shall address specifically the appropriateness of the museum's admission fee structure and its effect on children's accessibility to the facility.*

(3) All revenues received from the operation of the children's museum shall be expended only for the care, maintenance, operation, administration, improvement, or development of the museum.

(4) In constructing the children's museum facilities, the nonprofit organization shall incorporate historical architectural features consistent with buildings existing in Sacramento in the mid-1800's.

(b) The district superintendent for the department shall, following submittal of the first annual report under subdivision (a), hold a public meeting for discussion of the report and any operating policies or procedures. Any recommendation resulting from the annual public meeting shall be submitted by the district superintendent to the director for review and approval.

(c) The general plan for the children's museum shall, in addition to the requirements set forth in Section 5002.2, specifically evaluate and define the manner in which the museum is proposed to be operated. The general plan shall be reviewed by the State Park and Recreation Commission for a determination that the museum will be operated in a manner that generally meets the standards followed by the department in its operation of similar facilities, that enhances the general public use and enjoyment of, and recreational and educational experiences at, the unit, and that provides for the satisfactory management of park resources.

(d) Whenever the department intends to enter into an operating agreement with respect to a children's museum on the 1849 scene site in Old Sacramento State Historic Park in the City of Sacramento, the department shall notify each Member of the Legislature in whose district the unit is located of that intention.

O

ATTACHMENT F

SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Sheila Kuehl, Chair
2005-2006 Regular Session

BILL NO: AB 2782
AUTHOR: Jones
AMENDED: June 13, 2006
FISCAL: Yes HEARING DATE:June 20, 2006
URGENCY: No CONSULTANT:Marie Liu
SUBJECT: State parks: Old Sacramento State Historic Park.

Summary: This bill would authorize the Department of Parks and Recreation to enter into an operating agreement with a qualified nonprofit organization for the development and operation of a children's museum on the 1849 scene site in Old Sacramento State Historic Park. This bill would also authorize the department to exchange, with the City of Sacramento, specified properties in Old Sacramento State Historic Park for property elsewhere.

Existing Law: Division 5 (commencing with Section 5001) of the Public Resources Code authorizes the Department of Parks and Recreation (department) to administer and manage units within the State Park System.

Section 5080.30 of the Public Resources Code allows the department to enter into an agreement with other public agencies for the care, maintenance, and administration of lands for the state park system. Article 2, which begins with this section, specifies several such agreements between the department and nonprofits and public agencies.

Section 5002.2 of the Public Resources Code requires the department to prepare a general plan any time the use of a State Park unit is changed and before any new facilities are developed. The general plan must evaluate and define the proposed land uses and must be approved by the State

Park and Recreation Commission. Subsequent sections specify that general plan and change of use must be considered at a public hearing and the final general plan must be made available to the public upon request.

Proposed Law: This bill would:

1. Make several findings regarding the 1849 scene site and the characteristics that make it an attractive site for a children's museum;

2. Authorize the department to enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, and control of a children's museum on the 1849 scene site in Old Sacramento State Historic State Park in the City of Sacramento;

3. Require the children's museum to submit an annual written report to the department regarding its operating activities in the prior year, including all revenues and expenditures. The report will be discussed at an annual public meeting held by the department;

4. Restrict the expenditure of all revenues received from the operation of the children's museum to costs related to the care, operation, or development of the museum; and

5. Require the State Park and Recreation Commission to review the museum's general plan to determine whether the operation of the children's museum meets the standards followed by the department in operating similar facilities.

This bill would also allow the department, with the approval of the Director of General Services, to sell or exchange specific parcels in the Old Sacramento State Historic Park in the City of Sacramento. In exchange, the City of Sacramento will contribute financially towards the joint purchase of surplus Meadowview Corridor property, along with the department.

Arguments in Support: Supporters of the bill indicate the need and desire for a children's museum in Sacramento. Several supporters speak to the desirability of the 1849 scene site because it is located near other family friendly sites, is easily accessible, and will support businesses in Old Sacramento. The Sacramento Children's Museum states, "Over the past year, our Board has researched many sites in the greater Sacramento area. We have not found any site as exciting or that offers as many great opportunities as the 1849 Scene Site in Old Sacramento."

Arguments in Opposition: Opponents for this measure share the author's belief that a children's museum would be an important asset for the Sacramento area. However, they disagree that the specified site is an appropriate location. The Sacramento County Historical Society describes the site as the birthplace of Sacramento and states, "California State Parks acquired this property

forty years ago to preserve and interpret this history, and to protect the archaeological features that survived the founding era of the city?California State Parks has never had sufficient funding to bring about this important project, but this does not reduce or negate the values for which the 1849 Scene was originally preserved?" Opponents to the bill seek amendments that allow more flexibility so that a variety of possible sites may be analyzed.

Comments: Is the Children's Museum right for Old Sacramento? According to the author, the proposed museum site in Old Sacramento has been mostly vacant for 30 years. While State Parks had a development plan in the early 1970s to rebuild structures that existed on that site in 1849, including two hotels and a theater, no funds have been appropriated for the development of this site. State Parks does not plan to request funding in the near future to implement this plan.

The author indicates that the children's museum would resemble "Old Sacramento in the mid 1800's?giv[ing] the community a sense of what the buildings in Old Sacramento looked like before the big 1850 flood." Since the bill language does not specify any architectural requirements for the children's museum, the committee may consider

adding such language to provide for continuity in the Old Sacramento environment. (See amendment 1)

Will the museum properly preserve the public's access and use of the land? The bill specifically directs the State Park and Recreation Commission to review the museum's general plan to determine whether the facility will be operated in a way that enhances the general public use and enjoyment of the facility. Since the museum's admission fee is such a major factor in determining the public's accessibility, especially for children, the committee may want to specifically require the Commission to review the appropriateness of the museum's admission fee structure. (See amendment 2)

Details of the land exchange between the department and the City of Sacramento A draft memorandum of understanding between the department and city states the parties' mutual interest in trading properties for the public benefit. Specifically, the city will gain land that will allow the city to make progress towards its redevelopment plan for a mixed-use development along the Sacramento River, its goal to continually improve the bicycle and pedestrian access throughout the city, and its goal to create permanent public access to the Sacramento River. From the department's perspective, the land exchange will allow the state to continue to improve and enhance the Old Sacramento Historic District, the Old Sacramento State Historic Park, and the California Railroad Museum.

Suggested Amendments:

Amendment 1: page 4, after line 6, insert, "(4) The agreement shall require the nonprofit, in constructing the museum's facilities, to incorporate historical architectural features consistent with buildings existing in Sacramento in the mid 1800s."

Amendment 2: page 4, line 23, after the period, insert, "The Commission shall also specifically review the appropriateness of the museum's admission fee structure and its effect on children's accessibility to the facility."

SUPPORT:
Downtown Sacramento Partnership

Historic Old Sacramento Foundation, Inc.
Junior League of Sacramento
Sacramento Children's Museum
Sacramento Metropolitan Chamber of Commerce
Shimotsu Architecture, Inc.
one individual

OPPOSITION:
California Council for the Promotion of History
Sacramento County Historical Society

REPORT TO LAW AND LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2671

6

STAFF REPORT
July 18, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Amend Ordinance relating to the Recovery of Costs Incurred in the Enforcement of the Nuisance Code, Housing Code, and Dangerous Buildings Code

Location/Council District: City-wide

Recommendation:

This report requests that the Law and Legislation Committee approve and forward to the Mayor and the City Council the attached ordinance amending Sections 8.04.430 and 8.96.360 of the City Code related to recovery of costs of abatement of nuisances and enforcement of the housing and dangerous building codes.

Contact: Max Fernandez, Director of Code Enforcement, (916) 808-7940; Randy Stratton, Chief, Housing & Dangerous Buildings, (916) 808-6497, Ron O'Connor, Code Enforcement Manager, (916) 808-8183

Presenters: Randy Stratton, Chief, Housing & Dangerous Buildings, (916) 808-6497, Ron O'Connor, Code Enforcement Manager, (916) 808-8183

Department: Code Enforcement

Division: Neighborhood Code Enforcement and Housing & Dangerous Buildings

Organization #: 4651 & 4653

Summary:

This report provides information on the City's ability to recover the costs of nuisance abatement and enforcement of the housing and dangerous building codes.

Background Information:

State law authorizes recovery of nuisance abatement and related administrative costs by making the costs a personal obligation of the property owner and by placing a nuisance abatement lien against the property. (Gov. Code sections 38773 and 38773.1). The nuisance abatement lien is recorded in the County Recorder's office and has the same force, effect, and priority as a judgment lien. The city may foreclose on the lien and recover costs associated with the foreclosure action, including attorney's fees.

As an alternative to a nuisance abatement lien, state law provides that the costs may be imposed on the property as a special assessment. (Gov. Code section 38773.5). The special assessment is forwarded to the County Assessor's office and is collected as part of the property tax bill.

Our current City code only authorizes recovery of the costs by making them a personal obligation of the property owner and/or a special assessment on the properties. The proposed ordinance would provided the City the option of collecting the costs by making them a personal obligation of the property owner and/or placing a nuisance abatement lien on the property.

This proposed ordinance would provide the City greater flexibility in collecting costs, either by placing a nuisance abatement lien or a special assessment against the property. The proposed amendments modify Sacramento City Code sections 8.04.430 and 8.96.360 to virtually reflect each other.

Copies of ordinances from other cities were obtained for information on procedures other cities employ to recover abatement costs. A summary of those findings is provided in Exhibit C. Nearly every surveyed city currently imposes nuisance abatement costs as nuisance abatement liens.

Financial Considerations:

The proposed ordinance will assist in the collection of abatement costs and enforcement costs of the housing and dangerous buildings codes.

Environmental Considerations:

None.

Policy Considerations:

The staff recommendation is consistent with City Council priorities and policies related to compliance with the City's Codes, cost recovery, and the City's goals to improve and expand public safety.

Emerging Small Business Development (ESBD):

Not applicable. No goods or services are being purchased.

Respectfully Submitted by: _____
MAX B. FERNANDEZ
Code Enforcement Director

Recommendation Approval:

_____
GUSTAVO F. VINA
Assistant City Manager

Table of Contents:

Pg 1 Staff Report
Pg 4 Exhibit A - Ordinance Relating to the Recovery of Nuisance Abatement and Enforcement Costs (clean)
Pg 7 Exhibit B - Original Ordinance Relating to the Recovery of Nuisance Abatement and Enforcement Costs (redline)
Pg 11 Exhibit C - Comparison Chart of Other Cities' Procedures for Recovery of Nuisance Abatement and Enforcement Costs

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING SECTION 8.04.430 OF CHAPTER 8.04, AND AMENDING SECTION 8.96.360 OF CHAPTER 8.96 OF THE SACRAMENTO CITY CODE RELATING TO RECOVERY OF COSTS INCURRED IN THE ENFORCEMENT OF THE NUISANCE CODE, HOUSING CODE, AND DANGEROUS BUILDINGS CODE

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 8.04.430 of Chapter 8.04 of the Sacramento City Code is amended to read as follows:

8.04.430 Personal obligation, lien, or special assessment.

A. Upon receipt of the delinquency lien hearing officer's report, the city council shall schedule a public hearing at which it shall confirm, reject or modify the report and determine the costs of abatement. The public hearing shall be limited to the issue of whether the hearing before the delinquency lien hearing officer was conducted in accordance with applicable city ordinances. Only those owners who file an objection or protest and appear before the delinquency lien hearing officer shall be permitted to protest at the city council hearing.

B. Upon taking action under subsection A, the city council may order that the costs of abatement be made a personal obligation of the property owner and either a nuisance abatement lien or a special assessment against the property.

C. If an action or proceeding is commenced to recover the costs, the prevailing party shall be entitled to recover reasonable attorneys' fees, provided that, pursuant to California Government Code section 38773.5, attorneys' fees shall only be available where the city has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing

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ORDINANCE NO. _____

DATE ADOPTED: _____

party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

D. A nuisance abatement lien may be recorded and enforced against the property pursuant to the provisions of California Government Code section 38773.1. A nuisance abatement lien may be foreclosed by an action brought by the city for a money judgment. As part of the foreclosure action, the city may recover reasonable attorneys' fees and costs including, but not limited to, costs incurred for processing and recording the lien and providing notice to the property owner.

E. As an alternative to a nuisance abatement lien, the costs of abatement may be made a special assessment against the property. The special assessment may be collected at the same time and in the same manner as ordinary municipal taxes and shall be subject to the same penalties and procedures, including the sale of the property in case of delinquency, as provided for ordinary municipal taxes. The special assessment shall continue until the assessment and all interest and penalties due and payable thereon have been paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

SECTION 2. Section 8.96.360 of Chapter 8.96 of the Sacramento City Code is amended as follows;

8.96.360 Personal obligation, lien, or special assessment.

A. After the housing board's hearing provided in this article, the city clerk shall transmit the report to the city council. The city clerk shall also send the results of the hearing by first class mail to the objecting owners who appeared before the housing board, and shall include the date and time of the public hearing to be held by the city council no less than ten (10) days after the mailing in accordance with this section. Upon receipt of the housing board's report, the city clerk shall schedule a public hearing at which the city council shall confirm, reject or modify the report and determine the costs of abatement. The public hearing shall be limited to the issue of whether the housing board hearing provided in this chapter was conducted in accordance with applicable city ordinances. Only those owners who both file an objection or protest and appear before the housing board shall be permitted to protest at the city council hearing.

B. Upon taking action under subsection A, the city council may order that the costs of abatement be made a personal obligation of the property owner and either a nuisance abatement lien or a special assessment against the property.

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ORDINANCE NO. _____

DATE ADOPTED: _____

C. If an action or proceeding is commenced to recover the costs, the prevailing party shall be entitled to recover reasonable attorneys' fees, provided that, pursuant to California Government Code section 38773.5, attorneys' fees shall only be available where the city has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

D. A nuisance abatement lien may be recorded and enforced against the property pursuant to the provisions of California Government Code section 38773.1. A nuisance abatement lien may be foreclosed by an action brought by the city for a money judgment. As part of the foreclosure action, the city may recover reasonable attorneys' fees and costs including, but not limited to, costs incurred for processing and recording the lien and providing notice to the property owner.

E. As an alternative to a nuisance abatement lien, the costs of abatement may be made a special assessment against the property. The special assessment may be collected at the same time and in the same manner as ordinary municipal taxes and shall be subject to the same penalties and procedures, including the sale of the property in case of delinquency, as provided for ordinary municipal taxes. The special assessment shall continue until the assessment and all interest and penalties due and payable thereon have been paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

DATE PASSSED FOR PUBLICATION:
DATE ENACTED:
DATE EFFECTIVE:

_____
MAYOR

ATTEST:

_____
CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING SECTION 8.04.430 OF CHAPTER 8.04, AND AMENDING SECTION 8.96.360 OF CHAPTER 8.96 OF THE SACRAMENTO CITY CODE RELATING TO RECOVERY OF COSTS INCURRED IN THE ENFORCEMENT OF THE NUISANCE CODE, HOUSING CODE, AND DANGEROUS BUILDINGS CODE

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 8.04.430 of Chapter 8.04 of the Sacramento City Code is amended to read as follows:

8.04.430 ~~Confirmation of report~~--Personal obligation, lien, or special assessment.

A. Upon receipt of the delinquency lien hearing officer's report, the city council shall schedule a public hearing at which it shall confirm, reject or modify the report and determine the costs of abatement. The public hearing shall be limited to the issue of whether the hearing before the delinquency lien hearing officer was conducted in accordance with applicable city ordinances. Only those owners who file an objection or protest and appear before the delinquency lien hearing officer shall be permitted to protest at the city council hearing.

B. Upon taking action under subsection A, the city council may order that the ~~charge~~ costs of abatement be made a personal obligation of the property owner and ~~assess the charge against the property involved as a lien.~~ either a nuisance abatement lien or a special assessment against the property.

C. ~~If the council orders that a charge be made a personal obligation of the property owner, it shall direct the city attorney and finance department to collect the charge.~~ If an action or proceeding is commenced to recover the costs, the prevailing party shall be entitled

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FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

to recover reasonable attorneys' fees, provided that, pursuant to California Government Code section 38773.5, attorneys' fees shall only be available where the city has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

D. ~~If the council orders that the charge be assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary secured property taxes are collected and shall be subject to the same penalties and the same procedure of sale in case of delinquency as provided for ordinary secured property taxes.~~ A nuisance abatement lien may be recorded and enforced against the property pursuant to the provisions of California Government Code section 38773.1. A nuisance abatement lien may be foreclosed by an action brought by the city for a money judgment. As part of the foreclosure action, the city may recover reasonable attorneys' fees and costs including, but not limited to, costs incurred for processing and recording the lien and providing notice to the property owner.

E. ~~The assessments shall be subordinate to all existing special assessment liens previously imposed upon the same property and paramount to all other liens except state, county, and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest and penalties due and payable thereon will be paid. All laws applicable to the levy, collection and enforcement of secured property taxes shall be applicable to such assessment. (Prior code § 61.10.1006)~~ As an alternative to a nuisance abatement lien, the costs of abatement may be made a special assessment against the property. The special assessment may be collected at the same time and in the same manner as ordinary municipal taxes and shall be subject to the same penalties and procedures, including the sale of the property in case of delinquency, as provided for ordinary municipal taxes. The special assessment shall continue until the assessment and all interest and penalties due and payable thereon have been paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

SECTION 2. Section 8.96.360 of Chapter 8.96 of the Sacramento City Code is amended as follows;

8.96.360 Personal obligation, lien, or ~~and~~ special assessment.

A. After the housing board's hearing provided in this article, the city clerk shall transmit the report to the city council. The city clerk shall also send the results of the hearing by first class mail to the objecting owners who appeared before the housing board, and shall include the date and time of the public hearing to be held by the city council no less than ten (10)

days after the mailing in accordance with this section. Upon receipt of the housing board's report, the city clerk shall schedule a public hearing at which the city council shall confirm, reject or modify the report and determine the costs of abatement. The public hearing shall be limited to the issue of whether the housing board hearing provided in this chapter was conducted in accordance with applicable city ordinances. Only those owners who both file an objection or protest and appear before the housing board shall be permitted to protest at the city council hearing. ~~If the council orders that the charge be assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary secured property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary secured property taxes.~~

~~The assessments shall be subordinate to all existing special assessment liens previously imposed upon the same property and paramount to all other liens except for state, county, and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest and penalties due and payable thereon have been paid. All laws applicable to the levy, collection and enforcement of secured property taxes shall be applicable to such assessment. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is confirmed by the city council. (Prior code § 50.09.905)~~

B. Upon taking action under subsection A, the city council may order that the costs of abatement be made a personal obligation of the property owner and either a nuisance abatement lien or a special assessment against the property.

C. If an action or proceeding is commenced to recover the costs, the prevailing party shall be entitled to recover reasonable attorneys' fees, provided that, pursuant to California Government Code section 38773.5, attorneys' fees shall only be available where the city has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

D. A nuisance abatement lien may be recorded and enforced against the property pursuant to the provisions of California Government Code section 38773.1. A nuisance abatement lien may be foreclosed by an action brought by the city for a money judgment. As part of the foreclosure action, the city may recover reasonable attorneys' fees and costs including, but not limited to, costs incurred for processing and recording the lien and providing notice to the property owner.

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DATE ADOPTED: _____

E. As an alternative to a nuisance abatement lien, the costs of abatement may be made a special assessment against the property. The special assessment may be collected at the same time and in the same manner as ordinary municipal taxes and shall be subject to the same penalties and procedures, including the sale of the property in case of delinquency, as provided for ordinary municipal taxes. The special assessment shall continue until the assessment and all interest and penalties due and payable thereon have been paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

DATE PASSSED FOR PUBLICATION:
DATE ENACTED:
DATE EFFECTIVE:

_____
MAYOR

ATTEST:

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CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

Exhibit C

NUISANCE ABATEMENT LIEN COMPARISON CHART

CITIES	Nuisance abatement costs imposed as personal obligation	Nuisance abatement costs imposed as a special assessment	Nuisance abatement costs imposed as a nuisance abatement lien
Sacramento (current)	Yes	Yes	No
Sacramento (proposed)	Yes	Yes	Yes
Anaheim	Yes	Yes	Yes. Unpaid administrative fines in connection with real property are recorded as a lien. Lien has the same force and effect as a judgment lien.
Fresno	Yes	Yes	Yes. Abatement costs may be recovered by recording a nuisance abatement lien against the property pursuant to Government Code section 38773.1.
Long Beach	Yes	Yes	No
Oakland	Yes	Yes	No
Riverside	Yes	Yes	Yes. Abatement costs may be recovered by recording a nuisance abatement lien against the property pursuant to Government Code section 38773.1.

Exhibit C

NUISANCE ABATEMENT LIEN COMPARISON CHART

CITIES	Nuisance abatement costs imposed as personal obligation	Nuisance abatement costs imposed as a special assessment	Nuisance abatement costs imposed as a nuisance abatement lien
San Diego	Yes	Yes	Yes. Abatement costs may be recovered by recording a code enforcement lien or nuisance abatement lien against the property pursuant to Government Code section 38773.1.
San Jose	Yes	Yes	Yes. Abatement costs may be imposed as a lien against the property. The lien has the same force, effect, and priority as a judgment lien.
Santa Ana	Yes	Yes	Yes. Abatement costs may be recovered by recording a nuisance abatement lien against the property pursuant to Government Code section 38773.1.
Santa Paula*	Yes	Yes	Yes. Abatement costs may be recovered by recording a nuisance abatement lien against the property pursuant to Government Code section 38773.1.

* In a published opinion, City of Santa Paula v. Narula (2003) 114 Cal.App.4th 485, the City filed a lien against an apartment building that was in violation of numerous building and safety codes for unpaid administrative costs and penalties. The City obtained a judgment of foreclosure and sale and was also awarded its attorney's fees.

REPORT TO LAW & LEGISLATION COMMITTEE
City of Sacramento

915 I Street, Sacramento, CA 95814-2671

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STAFF REPORT
July 18, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Amend City Code for Animal Care Services

Location/Council District: Citywide

Recommendation:

This report identifies several modifications to the existing City animal code as recommended by community groups and City staff. Staff requests direction from the Law and Legislation Committee regarding proposed revisions to the City animal code relating to public safety, licensing, animal protection and welfare, and enforcement and collection practices.

Contact:	Hector Cazares, Division Manager, 808-7433
Presenters:	Hector Cazares, Division Manager
Department:	General Services
Division:	Animal Care Services
Organization No:	3174

Summary:

This is the first in a series of staff recommendations of proposed ordinance amendments and revisions addressing animal welfare and population management issues. These revisions will also address related public health and protection practices, enforcement activities, and rudimentary language modifications to current code.

To address the problem of animal overpopulation and create added incentives for pet owners to spay and neuter their animals, Animal Care Services proposes an increase in licensing fees for both altered and unaltered animals and additional restrictions on the sale, transfer and breeding of dogs and cats. Additionally, the proposed amendments will strengthen Animal Care's enforcement capability relating to dog noise abatement and chaining or tethering of dogs. These modifications will also address public protection and safety, animal abuse and neglect issues, and allow for internal cost recovery for program and operational expenses through an administrative remedy.

Staff will return in 90 days with the recommended code revisions intended to update and strengthen the City's animal welfare and public safety regulations.

Committee/Commission Action:

Staff anticipates review of these proposals in conjunction with the Animal Care Citizens Advisory Committee and various community animal welfare groups pursuant to the direction received from this Committee.

Background Information:

Proposed Licensing Fee Schedule

On June 10, 2003, City Council approved a revision in Animal Cares Service's licensing fee schedule. To address the pet overpopulation and enforcement issues caused by unaltered animals, the fee schedule provided a financial incentive for pet owners to alter their animals by authorizing licensing fees for altered animals at 1/3 the rate of that for unaltered animals.

However, every year, though the numbers are gradually decreasing, thousands of unwanted animals continue to be euthanized by the City of Sacramento. This is not only a problem within the City, but throughout the country. Spaying and neutering of animals is the foremost solution to ending the problem of pet overpopulation.

To address the costs and related public safety and enforcement issues associated with the pet overpopulation problem, staff proposes creating a significantly greater financial incentive for pet owners to spay and neuter their animals while proposing a modest fee increase for altered animals. The proposed fee for licensing an altered animal is approximately 1/10 the rate of that for unaltered animals. In addition, we are proposing that cats also be licensed, currently a legal requirement in the County of Sacramento. Because cats cannot be contained in yards and because they have not been required to be licensed, they have proliferated and created a tremendous workload on our shelter.

The proposed license fees were developed with input from numerous animal welfare organizations including the County of Sacramento, Humane Society of the United States, Animal Protection Institute, and the Sacramento Society for the Prevention of Cruelty to Animals. The County of Sacramento Animal Control is also proposing license fee increases.

Staff believes imposing a significantly greater licensing fee for unaltered animals and greater penalties for violations of the City's animal regulation ordinance will provide the extra incentive necessary for pet owners to spay and neuter their animals.

Additionally, our overall shelter operation is impacted by housing unaltered animals, as they often require special attention and separate kenneling, contributing to space shortages and behavioral problems. Unaltered animals are also a major cause of nuisances such as aggressive and "running at large" behaviors. Consequently, a portion of the proposed fees is targeted at recovering enforcement and housing costs, medical

and surgical expenses and damage caused by these unaltered animals. Upon further direction from this committee staff will bring back more definitive estimates of projected fee impacts.

The table below provides the current and proposed licensing fee structure:

Altered Dog			**Unaltered Dog**	
Current Fee		**Proposed**	**Current Fee**	**Proposed**
1 year	$12	$15	$36	$150
3 year	$30	$35	$90	$400
Altered Cat			**Unaltered Cat**	
Current Fee		**Proposed**	**Current Fee**	**Proposed**
1 year	$10	$10	$30	$75
3 year	$25	$25	$75	$200

Barking Dog and Anti-tethering Ordinances

Animal Care Services is working with the City Attorney's Office to revise animal nuisance regulations and animal care enforcement capabilities to achieve the following objectives:

- Provide clear criteria to authorize Animal Care enforcement staff to issue citations and adjudicate instances of public nuisance noise complaints, i.e., barking dog complaints

- Strengthen enforcement potential by clarifying procedures, enhancing penalties, and providing specific remedies for citizens who fall victim to irresponsible pet owners and animal nuisance behaviors, particularly excessive and uncontrolled barking

- Bring Animal Care codes into closer alignment with community "livability" standards and incorporate best practices within the Animal Care Services Division

- Strengthen Animal Care enforcement capability to statutorily pursue animal neglect and abuse cases in the area of animal confinement methods to increase public protection and curtail inhumane animal custodial practices that foster anti-social and aggressive animal behavior and create public safety hazards and engender animal cruelty practices

Administrative Remedy

As an alternative remedy for handling the citation and enforcement process Animal Care Services proposes:

- Streamlining the citation process and provide an in-house administrative procedure to manage ordinance violations and the appeal process
- Authorizing an in-house collection process for fees, fines and penalties to directly offset the cost of providing animal welfare services by eliminating the external collection agency from the revenue recovery process

This administrative remedy removes the citation process from the court system to an in-house resolution. Under the current system, pet owners pay fines to the court system, which in turn sends only a small percentage of the original fine to the City. If this proposal is adopted, pet owners will pay the entire fine to Animal Care Services, which will directly offset the cost of providing services. This proposal will also provide greater control over license payments because staff will be able to check for unpaid licenses at the time pet owners are paying fines. After approximately one year of using the new system staff will be able to accurately assess the impact on license revenue from this proposal. This administrative remedy will not require additional staffing.

Language Updates

Several areas in the current City animal code require language modification and clarification of processes. To address imprecise and inaccurate language and update terminology to accurately reflect organizational structure (replace "chief animal control officer" with "animal care manager") and establish enforcement criteria which clarify the designation for "dangerous dog" and "potentially dangerous dog" staff recommends minor revisions to the existing code. Authorizing these revisions will clarify the current ordinance and bring the City animal code into alignment with actual practices and refine enforcement criteria.

Additional Provisions

Additional provisions of this proposed ordinance amendment impose restrictions on the advertisement, sale, and transfer of animals, regulate the location and manner of these transactions, prohibit the sale of animals under the age of eight weeks, and delineate licensing requirements for animals involved in these transactions, including cat licensing.

Summation

The intent of these amendments is to reduce animal overpopulation, encourage pet owners to spay and neuter their animals, provide for an in-house cost recovery process that will return revenue to the City and reduce Animal Care's reliance on the General Fund, and to strengthen Animal Care's enforcement capabilities in noise and nuisance abatement areas and humane animal treatment practices which promote safe, livable

neighborhoods within our community. Staff requests direction from this Committee to address and prioritize the proposed code revisions described above. Staff also welcomes any additional recommendations from the Committee regarding changes to the animal code regulations.

Contingent upon the Committee's direction, staff will meet with community groups and work with the City Attorney's office to incorporate proposed revisions to the current City animal ordinance and return to this Committee for further consideration in approximately 90 days.

Financial Considerations:

The City's existing fee schedule was adopted June 10, 2003. This report proposes the following changes that may have a financial impact to the Animal Care Services division:

- An increase in licensing fees for both altered and unaltered dogs and cats
- Authorizing an in-house collection process for fines, fees, and penalties

The overriding goal of increasing licensing fees is to reduce pet overpopulation by encouraging owners to alter their dogs and cats. However, the proposed revisions do have the potential to increase revenue, which will help offset costs of providing animal care services such as sheltering, medical care, etc. Upon further direction and once in practice, staff will be able to better define the fiscal impacts of the proposed changes.

Staff does not anticipate a significant long-term revenue increase from the proposed in-house collection process because the overarching focus is always on encouraging pet owners to comply with licensing laws, rather than on issuing fines for non-compliance. No additional staffing will be required to operate the proposed in-house collection program. Staff will propose that a minimum of fifty percent of all revenue generated through in-house collection efforts be dedicated to spay and neuter community outreach and educational programs. Animal Care Services will also provide low-cost spay and neuter clinics and vouchers to assist low-income owners with the cost of spaying and neutering their pets.

Environmental Considerations:

None

Policy Considerations:

Establishing City Code provisions which address the community's needs and concerns, including reasonable regulations and requirements for the peace and protection of City neighborhoods, encourage responsible pet ownership, and promote compliance with Animal Care regulations, contribute to protecting the public's health, safety and the welfare of both the City's human and animal populations.

Emerging Small Business Development (ESBD):

None

Respectfully Submitted by: _____
Hector R. Cazares
Manager, Animal Care Services

Approved by: _____
for Reina J.Schwartz
Director, Department of General Services

Recommendation Approved:

_____
GUSTAVO F. VINA
Assistant City Manager

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