

1 JAN I. GOLDSMITH, City Attorney
2 DONALD WORLEY, Assistant City Attorney
3 ANDREA M. CONTRERAS, Deputy City Attorney (CSBN 235836)

4 Office of the City Attorney
5 1200 Third Avenue, Suite 1620
6 San Diego, California 92101-4178
7 Telephone: (619) 236-6220
8 Facsimile: (619) 236-7215

Exempt from fees per Gov't Code § 6103
To the benefit of the City of San Diego

Clerk of the Superior Court

AUG 01 2012

Attorneys for Defendants and Respondents City of San Diego

By: P. ASHWORTH, Deputy

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SAN DIEGO

11	CREED-21,	)	Case No. 37-2012-00098019-CU-TT-CTL
12	Plaintiff and Petitioner,	)	(Lead Case) Consolidated with Case
13	v.	)	No. 37-2012-00091567-CU-MC-CTL
		)	[IMAGED FILE]
14	CITY OF SAN DIEGO, and DOES 1 through	)	DEFENDANT AND RESPONDENT
15	100, inclusive,	)	CITY OF SAN DIEGO'S
16	Defendants and Respondents.	)	STIPULATION TO CERTAIN FACTS
17		)	Judge: Ronald S. Prager
18		)	Dept: 71
		)	Complaint Filed: May 25, 2012

19
20 Defendant and Respondent City of San Diego (City) hereby stipulates to the following
21 facts in the above-captioned matter. It is City's intent, with this stipulation, to relieve Plaintiff
22 and Petitioner of any burden of proof under Evidence Code section 115 with regard to the
23 following:


24 1. On December 5, 2011, the City received a request from Plaintiff and Petitioner
25 pursuant to the Public Records Act for documents. A copy of that request is attached hereto and
26 incorporated herein by reference as Exhibit A.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. The City did not respond to the request attached at Exhibit A until February 9, 2012. A true copy of that e-mail is attached hereto and incorporated herein by reference as Exhibit B.

Dated: July 31, 2012

JAN I. GOLDSMITH, City Attorney

By 

Andrea M. Contreras
Deputy City Attorney

Attorneys for Defendants and
Respondents City of San Diego

EXHIBIT A

TO

**DEFENDANT AND RESPONDENT CITY OF SAN DIEGO'S STIPULATION TO
CERTAIN FACTS**

BRIGGS LAW CORPORATION

San Diego Office:
814 Morena Blvd., Suite 107
San Diego, CA 92110

Telephone: 619-497-0021
Facsimile: 619-515-6410

Please respond to: Inland Empire Office

Inland Empire Office:
99 East "C" Street, Suite 111
Upland, CA 91786

Telephone: 909-949-7115
Facsimile: 909-949-7121

BLC File(s): 100732

5 December 2011

City Clerk Elizabeth Maland
City of San Diego
202 "C" Street, 2nd Floor
San Diego, CA 92101

Re: Request to Inspect and Obtain Copies of Public Records

Dear City Clerk:

On behalf of CREED-21 and pursuant to the California Public Records Act (GOV'T CODE § 6250 *et seq.*), I am writing to request an opportunity to first inspect and then obtain copies of the "public records" (as that term is defined under the Act) listed on *Attachment 1: Categories of Requested Public Records* to this request.

I ask that you make a determination on this request within 10 days of your receiving it, or even sooner if you can do so without having to review the responsive records. If you believe that any of these records is exempt from disclosure, I urge you to note in your reply whether the exemption is discretionary and, if so, whether you are required to exercise your discretion to withhold the record in this particular case. If you determine that any portion of the responsive records is exempt from disclosure and that you intend to withhold that portion, I ask that you redact that portion for the time being and make the other portion available as requested. In any event, please respond with a signed notification citing the legal authorities on which you rely if you determine that any portion of the responsive records, if not all of them, is exempt and will not be disclosed.

If public records responsive to this request are available in one or more non-paper formats (including but not limited to electronic, magnetic, or digital formats), make sure that your response to this request includes production of all responsive records in non-paper formats even if the records are also available in paper format. If there are no records responsive to a particular category listed on *Attachment 1*, please confirm in writing that such records do not exist; and if responsive records used to exist but have been lost, stolen, or destroyed, please (i) identify the date of loss, theft, or destruction and (ii) provide a copy of all available evidence of the loss, theft, or destruction.

All responsive records must be produced for inspection before my client will pay for copies, unless I agree otherwise in writing after receiving your estimate of copying costs. Furthermore, my client reserves the right to make its own reproduction of the responsive records, at its own expense.

Be Good to the Earth: Reduce, Reuse, Recycle



RECEIVED
CITY CLERK'S OFFICE
11 DEC -5 PM 1:31
SAN DIEGO, CALIF.

City Clerk Elizabeth Maland
City of San Diego

December 5, 2011
Page 2

If the document is (or documents are) in electronic format, I would appreciate if they could be e-mailed to Mekaela@briggslawcorp.com. Thank you for your time and attention to this matter. If I can provide any clarification that will help you to expedite this request, please do not hesitate to contact me.

Sincerely,

BRIGGS LAW CORPORATION

Mekaela M. Gladden

Be Good to the Earth: Reduce, Reuse, Recycle



Attachment 1: Categories of Requested Public Records
Page 1 of 1 (following request letter)

1. Any and all Initial Studies prepared for the Via Rialto Storm Drain Repair project (Project 222828).
- N.B.* The Notice of Right to Appeal the Environmental Determination for this project refers to an Initial Study prepared for this project.



EXHIBIT B

TO

**DEFENDANT AND RESPONDENT CITY OF SAN DIEGO'S STIPULATION TO
CERTAIN FACTS**

Contreras, Andrea

To: Mekaela Gladden
Subject: CREED-21 (Via Rialto) v. COSD:SDSC 37-2012-00091567-CU-MC-CTL
Attachments: initial study worksheet.pdf

Mekaela:

Regarding the above-referenced case, I believe there has been a misunderstanding. Staff did not prepare an Initial Study for the Via Rialto Project. It's unclear to me why that language was included in the Notice and the Exemption itself, but to my understanding, the City does not perform Initial Studies for Exemptions.

I have attached a worksheet that staff used when reviewing the application for Via Rialto. It was not an identifiable record that was reasonably described by your Public Records Act request on December 5, 2011, but I wanted to provide it to you to the extent it might be what you need. Staff tells me this is what they were referring to when it was mentioned at hearing and that there is no official Initial Study as we generally interpret that document, i.e., for a negative declaration or an environmental impact report.

As there are no documents that are otherwise responsive to your lawsuit, please dismiss the case at your earliest convenience.

Thank you,

Andrea

Andrea M. Contreras, Deputy City Attorney
1200 Third Avenue | Suite 1100
San Diego | CA 92101
T | 619.533.5822 | F | 619.533.5856

Please consider the environment before printing this message

PROJECT INFORMATION				
Project VIA RIALTO STORM DRAIN	Applicant CITY OF SD BCP	CEQA	NEPA	SCH
LDR# N/A	Agent JEFF SORIANO X 35140	Due Date COMPLETED 11/28/2011		
JO# WBS-B-00009.07.01	PTS No. 222828	DPM PATRICIA GRABSKI		
Location 60' DOWNSLOPE FROM A SFR @ 7435 CAM. RIALTO				
Discretionary Actions CDP & SDP			Variances NONE	
Project Description CDP & SDP FOR AFTER THE FACT EMERGENCY (STORM DRAIN) + THE REVEG PLAN				
SITE INFORMATION				
TG pp.	Aerial pp.	Lambert Coord.		
Community, Master, SA Plans LJ COMMUNITY PLAN		Council District 1		
Existing Area STEEP WEST FACING SLOPE	Proposed NEW REVEG	Acres / sq. ft.	Site Area	Acres / sq. ft.
Existing Land Use CANYON	Prop. LU Desig. NO CHANGE	N	S	
Existing Zoning LJ SPD-SF	Prop. Zones NO CHANGE	E	W	
ENVIRONMENTAL IMPACTS				
Sensitive Areas/Overlay Zone		Archaeological/Historical NO IMPACTS		Noise NO IMPACTS
Sensitive Coastal Overlay Zone	YES	Age	NO STRUCTURES ON SITE	Source(s) Affecting/Distance(s)
Airport Approach Overlay Zone	NO	Designated Site?		REVEG PLAN
Airport Environs Overlay Zone	NO		NO ARCHAEOLOGICAL RESOURCES	NO NOISE IMPACTS
Parking Impact Overlay Zone	NO	Resource Potential	VERY LOW	
Lagoon	NO	# sites w/in 1-mile	STEEP SLOPE	Sensitive Receptors
Open Space CANYON	YES	# sites w/in 1/2-mile	NO IMPACT	GP Standard for proposed LU
Other		# sites On-site		Project Generated Sources
Biological Resources NO IMPACTS		Paleontology NO IMPACTS		Traffic N/A
MSCP Map #		Formation(s)	DAYPOINT / BINSTLOMA	
Wetlands	NO	THE ONLY PHYSICAL CHANGE		ADT (driveway rates)
Riparian	NO	IS THE REVEG PLAN.		
Vernal Pools	NO	Resource Potential	NO POTENTIAL	
Sensitive Uplands	YES	TO IMPACT RESOURCES		Air Quality NO IMPACTS
MHPA	NO	Known sites in Vicinity	SEVERAL	
Other			REVEG NO EMISSIONS	
		Known sites On-site	NONE	
Habitat On-site M.K.O.F NATIVE?			Parking N/A	
NON NATIVE?		Max Grading Depth	ONLY REVEG	
Habitat Adjacent CANYON SACD SCRUB		Excavation Quantity	NO REAL	
Sensitive ssp. CANYON SACD SCRUB		Max Trenching Dept	GRADING	

Geologic Hazards	Grading		Hydrology
Map # 22	Total: MINIMAL Acres		Erosion Control STORM WATER
Hazard Categories/Risk 22	Cut:	Import	PROJECT w/ NEW REVEG.
LANDSLIDE AREA	Fill:	Export	Water Quality
THE PROJECT HAS IMPROVED THE STABILITY OF THE SLOPE			BMPs CONSTRUCTION
Faults on-site/within 100 ft. NONIZ	Topography		BMPs IMPROVES WATER QUALITY AND IMPROVE
	Grading 0-10%		
	11-24%		Hazardous Mats
Soils	25% or over ✓		NONIZ

Soils Sheet # 53	Land Uses N/A		
Soil ALTAMONT CLAY			
Ag NO	Max Retain Wall Height		NOTES/TECH STUDIES
Erod. YES	Max Manu. Slope Height		BIO REPORT
Building Mat. N/A	Contour Grading Proposed		REVEG PLAN

Flood Hazards		
Open Space-Floodplain	Visual N/A	
Floodway / NO		
Floodplain Fringe	THE REVEG PLAN WILL RETURN THE SLOPE TO PREVIOUS CONDITIONS → THE REVEG PLAN WILL IMPROVE THE VISUAL QUALITY	

OVER 25% GRAVITY LIMITED RESOURCE POTENTIAL

Historical/Archaeological/Cultural / N/A

JOB #	PROJECT NAME	HIST	ARCH	CULT	MONITOR	COMMENTS
		+	-	+	-	
		+	-	+	-	
		+	-	+	-	
		+	-	+	-	
		+	-	+	-	

NO CUM IMPACTS / NO OTHER PROJECTS IN CANYON, VARIOUS MINISZORAN IN THE SFR & LIMITED DISCRETIONARY

JOB #	PROJECT NAME	EX	ND	MND	EIR	ADD	WDN	ANALYST	COMMENTS
1154	121 PARTRIDGE DR	EX	ND	MND	EIR	ADD	WDN	JAKUBAUSKIS	BIO IMPACTS
		EX	ND	MND	EIR	ADD	WDN		
		EX	ND	MND	EIR	ADD	WDN		
		EX	ND	MND	EIR	ADD	WDN		