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2011 DEC -3 PM 12:17

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

9 Attorneys for Defendants and Respondents City of San Diego

10  
11 **SUPERIOR COURT OF CALIFORNIA**  
12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

13 CREED-21,  
14  
15 Plaintiff and Petitioner,  
16  
17 v.  
18  
19 CITY OF SAN DIEGO, and DOES 1 through  
20 100,  
21  
22 Defendants and Respondents,  
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27  
28  
DOES 101 through 1000,  
Real Parties-in-Interest

Case No. 37-2012-00098019-CU-TT-CTL  
[Lead Case] Consolidated with Case  
No. 37-2012-00091567-CU-MC-CTL

**PARTIES' STIPULATION OF  
CERTAIN FACTS AND REQUEST  
FOR DISMISSAL WITH PREJUDICE  
OF CERTAIN COUNTS; ORDER  
THEREON [IMAGED FILE]**

Judge: Ronald S. Prager  
Dept: 71  
Complaint Filed: May 25, 2012

Petitioner CREED-21 (Petitioner) and Defendants and Respondents City of San Diego  
(Respondent) (together, Parties), by and through their attorneys, represent and stipulate as  
follows:

////

1           1.       This matter is a consolidated case that comprises two separate lawsuits filed by  
2           Petitioner against Respondent—one alleging violations under the California Public Records Act  
3           (CPRA) and one under the California Environmental Quality Act (CEQA).

4           2.       The CPRA lawsuit includes the following three causes of action: the first for  
5           violation of the CPRA; the second for declaratory relief that the CPRA had been violated; and  
6           the third for a writ of mandate to compel disclosure of documents.

7           3.       On October 5, 2012, the Court granted summary adjudication in favor of  
8           Respondent on the third cause of action in the CPRA lawsuit, but denied summary judgment on  
9           the first and second causes of action.

10          4.       The Parties have agreed to a settlement of the portion of this consolidated case  
11          dealing with the CPRA lawsuit, which contemplates implementation through this stipulation.

12                    BASED ON THE FOREGOING, THE PARTIES STIPULATE THAT:

13          A.       The initial study worksheet that is attached to this Stipulation as Exhibit A is  
14          responsive to Petitioner’s CPRA request, which is the subject of the CPRA lawsuit, but the initial  
15          study worksheet was not provided to Petitioner in a timely manner under the CPRA.

16          B.       The first and second causes of action in the CPRA lawsuit shall be dismissed with  
17          prejudice, to be effective upon approval of this stipulation by the Court.

18          C.       The dismissal of the CPRA lawsuit notwithstanding, Petitioner is entitled to  
19          recover its attorney fees and costs in connection with the CPRA lawsuit. The amount of fees will  
20          be decided by the Court through a motion for attorney fees upon resolution of the CEQA portion  
21          of this consolidated case. The amount of costs will be determined through the filing of an  
22          appropriate cost memorandum and any related motion to strike or tax costs.

23          D.       It is the Parties’ intention that, with regard to the merits of this consolidated case,  
24          only the claims and defenses raised in the CEQA lawsuit remain to be decided by this Court.

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SO STIPULATED:

Dated: November 28, 2012

JAN I. GOLDSMITH, City Attorney



By \_\_\_\_\_  
Andrea M. Contreras  
Deputy City Attorney

Attorneys for Defendants and Respondents  
City of San Diego

Dated: November 27, 2012

BRIGGS LAW CORPORATION



By \_\_\_\_\_  
Cory J. Briggs

Attorneys for Plaintiff and Petitioner Creed-21

ORDER

FOR GOOD CAUSE SHOWING, IT IS SO ORDERED.

Date: DEC 05 2012

Signed: RONALD S. PRAGER  
Judge of the Superior Court

PARTIES' STIPULATION OF CERTAIN FACTS AND  
REQUEST FOR DISMISSAL WITH PREJUDICE OF CERTAIN COUNTS

Exhibit "A"

PROJECT INFORMATION			
Project VIA RIALTO STORM DRAIN	Applicant CITY OF SD ECP	CEQA	NEPA SCH
LDR# N/A	Agent JEFFSORIANO X35140	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 STEEL WEST FACIAL <sup>SURFACE</sup>	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	
Sensitive Coastal Overlay Zone		Age	Noise NO IMPACTS
YES	Source(s) Affecting/Distance(s)	NO STRUCTURES ON SITE	
Airport Approach Overlay Zone	Designated Site?		REVEG PLAN
NO		NO ARCHAEOLOGICAL RESOURCES	
Airport Environs Overlay Zone			NO NOISE IMPACTS
NO	Resource Potential	VERY LOW	
Parking Impact Overlay Zone	# sites w/in 1-mile	STEEL SLOPE	
NO			Sensitive Receptors
Lagoon	# sites w/in 1/2-mile	NO IMPACT	
NO			GP Standard for proposed LU
Open Space CANYON	# sites On-site		Project Generated Sources
YES			
Other			
Biological Resources NO IMPACTS		Paleontology NO IMPACTS	
MSCP Map #		Formation(s) DAYPOINT / BINTLOMA	Traffic N/A
Wetlands		Proposal consistent w/ CP LU?	
NO	ADT (driveway rates)		
Riparian			
NO			
Vernal Pools	Resource Potential		
NO	NO POTENTIAL		
Sensitive Uplands			Air Quality NO IMPACTS
YES	TO IMPACT RESOURCES		
MHPA	Known sites In Vicinity		Sensitive Receptors N/A
NO	SEVERAL		
Other			REVEG NO EMISSIONS
	Known sites On-site		
	NONE		
Habitat On-site MIX OF NATIVE & NON NATIVE			Parking N/A
	Max Grading Depth	ONLY REVEG	Spaces Required (Difference)
	Excavation Quantity	NO REVEG	Spaces Proposed =
	Max Trenching Dept	GRADING	

SCRUBS

Geologic Hazards		Grading				Hydrology			
Map # 22	Total: MINIMAL Acres	Erosion Control		STORM WATER					
Hazard Categories/Risk 22	Cut:	Import		PROJECT w/ NEW REVIEW					
LANDSLIDE AREA	Fill:	Export		Water Quality					
THE PROJECT HAS IMPROVED THE STABILITY OF THE SLOPE	Topography		BMPs CONSTRUCTION						
Faults on-site/within 100 ft. NONIZ	Grading 0-10%		BMPs IMPROVES WATER QUALITY AND IMPROVE						
	11-24%		Hazardous Mats						
Soils	25% or over ✓		NONIZ						
Soils Sheet # 53	Land Uses N/A								
Soll ALTAMONT CLAY	Max Retain Wall Height		NOTES/TECH STUDIES						
Ag NO	Max Manu. Slope Height		BIO REPORT						
Erod. YES	Contour Grading Proposed		REVEG PLAN						
Building Mat. N/A	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% GRASS LIMITED RESOURCE POTENTIAL	Historical/Archaeological/Cultural		N/A						
JOB #	PROJECT NAME	HIST	ARCH	CULT	MONITOR	COMMENTS			
		+	-	+	-	+	-		
		+	-	+	-	+	-		
		+	-	+	-	+	-		
		+	-	+	-	+	-		
		+	-	+	-	+	-		
No Cum Impacts		cumulative impacts		NO OTHER PROJECTS IN CANYON, VARIOUS REGULATIONS IN THE SFR & LINDSAY				DISCRETIONARY	
JOB #	PROJECT NAME	EX	ND	MND	EIR	ADD	WDN	ANALYST	COMMENTS
1154	2 PARTRIDGE DR	EX	ND	MND	EIR	ADD	WDN	JAKUBOSKI	BIO IMPACTS
		EX	ND	MND	EIR	ADD	WDN		
		EX	ND	MND	EIR	ADD	WDN		
		EX	ND	MND	EIR	ADD	WDN		

PROOF OF SERVICE

2012 DEC -3 PM 12: 17

1. My name is Cory J. Briggs. I am over the age of eighteen. I am employed in the State of California, County of San Bernardino.

2. My  business  residence address is Briggs Law Corporation, 99 East "C" Street, Suite 111, Upland, CA 91786

3. On November 28, 2012, I served  an original copy  a true and correct copy of the following documents: PARTIES' STIPULATION OF CERTAIN FACTS AND REQUEST FOR DISMISSAL WITH PREJUDICE OF CERTAIN COUNTS; ORDER THEREON

4. I served the documents on the person(s) identified on the attached mailing/service list as follows:

*by personal service.* I personally delivered the documents to the person(s) at the address(es) indicated on the list.

*by U.S. mail.* I sealed the documents in an envelope or package addressed to the person(s) at the address(es) indicated on the list, with first-class postage fully prepaid, and then I

deposited the envelope/package with the U.S. Postal Service

placed the envelope/package in a box for outgoing mail in accordance with my office's ordinary practices for collecting and processing outgoing mail, with which I am readily familiar. On the same day that mail is placed in the box for outgoing mail, it is deposited in the ordinary course of business with the U.S. Postal Service.

I am a resident of or employed in the county where the mailing occurred. The mailing occurred in the city of Upland, California.

*by overnight delivery.* I sealed the documents in an envelope/package provided by an overnight-delivery service and addressed to the person(s) at the address(es) indicated on the list, and then I placed the envelope/package for collection and overnight delivery in the service's box regularly utilized for receiving items for overnight delivery or at the service's office where such items are accepted for overnight delivery.

*by facsimile transmission.* Based on an agreement of the parties or a court order, I sent the documents to the person(s) at the fax number(s) shown on the list. Afterward, the fax machine from which the documents were sent reported that they were sent successfully.

*by e-mail delivery.* Based on an agreement of the parties or a court order, I sent the documents to the person(s) at the e-mail address(es) shown on the list. I did not receive, within a reasonable period of time afterward, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws  of the United States  of the State of California that the foregoing is true and correct.

Date: November 28, 2012

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

**SERVICE LIST**

CREED-21 v. City of San Diego  
San Diego County Superior Court case no. 37-2012-00091567-CU-TT-CTL

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