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OCT 01 2010

SAN DIEGO
COUNTY GRAND JURY

THE CITY OF SAN DIEGO
COUNCIL PRESIDENT BENJAMIN HUESO
DISTRICT EIGHT

October 1, 2010

Honorable Judge Kevin A. Enright
Presiding Judge
San Diego County Superior Court
Main Courthouse, Third floor
220 West Broadway
San Diego, CA 92101

RE: City Council Response to Grand Jury Report
"Ethics in Government – Codes of Ethics, Internal Controls, Fraud Hotlines"

Dear Judge Enright:

Pursuant to the California Penal Code Section 933.05 (a), (b) and (c), the San Diego City Council, on behalf of the City Auditor and the Audit Committee, provides the following response to the Grand Jury Report filed May 27, 2010. On September 27, 2010, the City Council voted to approve the responses contained in a September 8, 2010 memo from the City Auditor to the Audit Committee.

The Grand Jury Report included 18 findings and 21 recommendations to various local government entities. Four findings and three recommendations were directed to the San Diego City Auditor and to the Audit Committee.

The City Council Response on the Findings and Recommendations:

FINDINGS

Finding #05: The City appears to have no integrated comprehensive Code of Ethics designed, for example, for classified employees and parties dealing with the City and addressing basics such as fraud, waste, abuse and conflict of interest. However, the City Auditor publishes, on the departmental web page, explicit definitions of fraud, waste and abuse, accessed either as a separate link or through the City Employee Fraud Hotline Policy and Procedures Manual.



Proposed Response: Partially disagree

The City has an Employee Code of Conduct Handbook that was prepared by the Mayor's Office of Ethics and Integrity in 2007.¹ This handbook is available and applicable to all City employees on the City's intranet, under the Human Resources Department web page (policies and procedures). The Code of Conduct Handbook includes the following ethics-related guidance:

- Obligation to Citizens
- Future Employment
- Honesty and Integrity
- Favoritism
- Avoidance of the Appearance of Impropriety
- Product Endorsement
- Use of City Resources
- Participation in Political Activities
- Responsibility of Public Service
- Telephone Usage
- Statement of Economic Interest
- Electronic Mail and Internet Usage
- Improper Use of Position
- Use of Confidential Information
- Ethics Pledge (Unclassified Employees)
- Conflict of Interest
- Gifts/Favors
- Ethics Training
- Incompatible Collateral/Outside Employment

The Code of Conduct Handbook also has guidance on unlawful harassment, nondiscrimination, and whistleblower protection. The handbook has information on how to report improper conduct and where to seek advice.

Based on the City Auditor's review of the Code of Conduct Handbook, the Mayor's Office should update the handbook to reflect that the Office of Ethics and Integrity is no longer in existence and update contact information. Further, the Mayor should ensure that the handbook is distributed to all City employees on an annual basis and that unclassified employees sign the ethics pledge.

Finding #06: The City has an effective charter-based internal audit and hotline process managed by the City Auditor and resulting in identification of significant recoverable funds and cost savings.

Proposed Response: Agree

Concur with the Grand Jury that the City has effective charter-based audit function that has resulted in the identification of potential savings and increased revenues. Between July 1, 2008 and December 30, 2009, the City Auditor issued 40 audit reports with 274 recommendations and identified \$7.4 million in potential monetary recoveries and cost savings for the City. This translates to a return on investment of \$3 to \$1.

¹ The Office of Ethics and Integrity was disbanded during Fiscal Year 2009

Finding #07: Investigations and audits by the City Auditor, whether initiated by City Hotline calls or otherwise, often result in savings due to prevention and increased efficiency, not quantified in dollars.

Proposed Response: Agree

The City Auditor substantiated investigations and audits have identified recommendations to increase efficiencies and increase savings in the delivery of government services.

Finding #08: The City Hotline phone number is not posted on the Home page of the City website.

Proposed Response: Agree

As of the date of the Grand jury report, the fraud hotline number was not posted on the City's homepage. On August 17, 2010, a City Auditor Fraud Hotline link button was posted on the City's website homepage – <http://www.sandiego.gov/>.

RECOMMENDATIONS

Recommendation 10-63: Consider collecting and posting an integrated comprehensive Code of Ethics designed for classified employees and parties dealing with the City and addressing basics such as fraud, waste, abuse and conflict of interest.

Proposed Response: Implemented

This recommendation has been implemented, but should be updated to reflect that the Office of Ethics and Integrity is no longer in existence and include updated contact information. Further, the Mayor should ensure that the handbook is distributed to all City employees on an annual basis and that unclassified employees sign the ethics pledge.

Recommendation 10-64: Consider posting the City Hotline phone number on the Home page of the City website, on the City Television Network (Channel 24), and post prominently the phone number in City workplaces.

Proposed Response: Partially Implemented

Specifically, the Fraud Hotline already is displayed on the City Television Network on a rotational basis. Further, Fraud Hotline posters were distributed and posted to City workplaces in 2008. However, in FY 2010-11, the Office of the City Auditor will work with the General Services Department on developing an alternative method for posting the Fraud Hotline number in all City workplaces. Finally, on August 17, 2010, the Fraud Hotline link was added to the home page of the City website.

Recommendation 10-65: Consider including a non-binding recommendation regarding disposition in City Auditor staff reports of cases involving fraud, waste, abuse and conflicts of interest.

Proposed Response: Implemented

The City Auditor's fraud hotline investigative reports include recommendations for corrective actions regarding case disposition.

Please feel free to contact my office if you have any further questions.

Sincerely,



Benjamin Hueso
City Council President

Cc: Mayor Jerry Sanders
Honorable Members of the San Diego City Council
Chief Operating Officer Jay Goldstone
City Attorney Jan Goldsmith
City Auditor Eduardo Luna
Independent Budget Analyst Andrea Tevlin
City Clerk Liz Maland
Director of Administration Debra Fischle-Faulk
San Diego County Grand Jury Foreman Victoria Stubblefield

Attachment: City of San Diego Resolution Number R-306161, dated September 27, 2010
Approving the City Council's Response to the 2009-2010 San Diego County Grand Jury Report
Titled "*Ethics in Government – Code of Ethics, Internal Controls, Fraud Hotlines*"

BH:mg

RESOLUTION NUMBER R- 306161
DATE OF FINAL PASSAGE SEP 27 2010

APPROVING THE CITY COUNCIL'S RESPONSE TO THE
2009-2010 SAN DIEGO COUNTY GRAND JURY REPORT
TITLED "ETHICS IN GOVERNMENT – CODE OF ETHICS,
INTERNAL CONTROLS, FRAUD HOTLINES"

WHEREAS, on May 27, 2010 the 2009-2010 San Diego County Grand Jury (Grand Jury) filed a report titled "Ethics in Government – Code of Ethics, Internal Controls, Fraud Hotlines" (Report) that requested a response from several agencies, including the San Diego City Auditor and Audit Committee; and

WHEREAS, under California Penal Code section 933(c), within 90 days after the filing of the report, each public agency which the Grand Jury reviewed, and about which it issued the Report, must comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency; and

WHEREAS, under California Penal Code section 933(c) the City Council is the governing body responsible for providing a response to the Grand Jury Report; and

WHEREAS, at the request of the Council President, the Superior Court has extended the time to respond from August 25, 2010 to October 1, 2010; and

WHEREAS, the Grand Jury assessed several issues relating to the City of San Diego and requested a response from the City Auditor to recommendations 10-63 through 10-65, and from the Audit Committee to recommendations 10-63 and 10-64, including a response to the findings in the Report that relate to the City of San Diego; and

WHEREAS, the City Auditor, in consultation with the Office of the Independent Budget Analyst, has proposed a response to the Report as set forth in the City Auditor report dated September 8, 2010, for the City Council's consideration; and

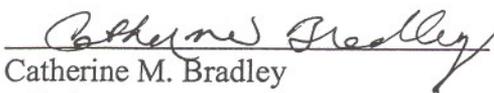
WHEREAS, the proposed response to the Report was approved by the Audit Committee on September 13, 2010; and

WHEREAS, under Charter section 280(a)(1) this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the City Council and not affecting the administrative service of the City under the control of the Mayor; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council approves and adopts as its own the response to the 2009-2010 San Diego County Grand Jury Report titled "Ethics in Government – Codes of Ethics, Internal Controls, Fraud Hotlines" as set forth in City Auditor report dated September 8, 2010 and approved by the Audit Committee on September 13, 2010.

BE IT FURTHER RESOLVED, that the Council President is authorized and directed, on behalf of the San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than October 1, 2010.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Catherine M. Bradley
Chief Deputy City Attorney

CB:sc
09/14/10
09/16/10 COR.COPY
Or.Dept:Audit Committee

Passed by the Council of The City of San Diego on SEP 27 2010, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carl DeMaio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 27 2010

AUTHENTICATED BY:

(Seal)

JERRY SANDERS
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

306161

Resolution Number R-_____

