



THE CITY OF SAN DIEGO
COUNCIL PRESIDENT MYRTLE COLE

FOURTH DISTRICT

November 8, 2018

Judge Peter C. Deddeh
Presiding Judge
San Diego Superior Court
1100 Union Street, 10th Floor
San Diego, CA 92101

Re: Grand Jury Report: "City of San Diego Corporate Partnership Development Program"

Dear Judge Deddeh:

Pursuant to California Penal Code Section 933.05(a),(b) and (c), the City of San Diego provides the attached response from the Mayor and City Council to the applicable findings and recommendations included in the above referenced Grand Jury Report.

If you require additional information or have any questions, please contact Erin Demorest, Director of Legislative Affairs, at 619-533-3920.

Sincerely,

Myrtle Cole

- Encl: 1. City response to Grand Jury Report: "City of San Diego Corporate Partnership Development Program"
2. City Council Resolution R-311999

**City Response to
San Diego County Grand Jury Report Titled
“City of San Diego Corporate Partnership Development Program”**

Pursuant to California Penal Code section 933(c), the City of San Diego Mayor and Council (City) provide the following responses to the findings and recommendations pertaining to the City of San Diego which are included in the above referenced Grand Jury Report.

First, the City would like to comment on the associated San Diego County audit (Report No. A18-023) that was done in conjunction with this Grand Jury report. The audit report summary states: “Within the scope of the audit, OAAS [Office of Audits & Advisory Services] concluded that there is not reasonable assurance that CPD [Corporate Partnerships and Development] management practices are proper and adequate. As a result, the City of San Diego is unable to determine the overall success of CPD.” The City disagrees with this overly broad statement.

Specifically, a number of the findings included in the audit report incorporate misinterpretations and amplifications of minor procedural lapses to make far-reaching conclusions. For example, the auditors asserted that “CPD Inaccurately Reported Revenue Generated by the Program.” They cite that revenue reported (which was taken from the CPD website) was based on estimates rather than actual amounts; but they did not show how that was inappropriate or whether they attempted to examine the estimates. A few other examples of disagreement include that “CPD Did Not Adequately Track and Memorialize Sponsorships,” there is “Inadequate Development of Requests for Sponsorships,” and there are “Inadequate Document Retention Policies.”

The City also notes that the County auditors did not provide CPD with a draft of the audit report, even when requested by CPD. Therefore, CPD was unable to provide comments or observations with respect to potential audit findings. An audit of a City program by San Diego County, undertaken at the request of the County Grand Jury, is a unique situation for which the City is unable to find legal authority. However, the City cooperated with the audit and provides the following response to the Grand Jury’s report.

FINDINGS 01 THROUGH 10

Finding 01: *Policy 000-40 does not list all types of sponsorship agreements.*

Response: **The Mayor and City Council agree with the Grand Jury’s finding.**

Finding 02: *The audit was unable to determine whether all agreements under the Program had been identified.*

Response: **The Mayor and City Council partially disagree with the Grand Jury’s finding.**

The San Diego County auditors requested information on agreements that have been developed by CPD; and CPD provided the auditors a comprehensive list of marketing

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partnership agreements (including those not directly labeled as such). In addition, the auditors were provided a revenue and in-kind tracking report for the last five years, from which they selected agreements to examine.

Finding 03: *CPD does not comply with the MMP requirement to track and report on all marketing partnerships developed by City departments on a quarterly basis.*

Response: The Mayor and City Council agree with the Grand Jury’s finding.

This requirement has been addressed in the revised Marketing Partnership Policy. CPD will be obtaining marketing partnership information from departments for agreements valued at \$25,000 or greater and will be including such information in annual reports.

Finding 04: *The lack of a requirement for disclosure increases the risk that an agreement could create a conflict of interest, or the appearance of one.*

Response: The Mayor and City Council agree with the Grand Jury’s finding.

This requirement has been addressed in the revised Marketing Partnership Policy and updated Request for Sponsorship (RFS) form. RFSs will require disclosure of any conflicts of interest. If an RFS is not issued, marketing partnership agreements will address compliance with required disclosures.

Finding 05: *The disposition schedule does not require CPD to maintain project records for at least the life of the agreement.*

Response: The Mayor and City Council disagree with the Grand Jury’s finding.

The CPD disposition schedule requires project records for contracts/agreements not approved by Council to be maintained for five years after the contract/agreement ends. Project records for contracts/agreements approved by Council must be kept permanently.

Finding 06: *CPD files on some agreements are incomplete.*

Response: The Mayor and City Council partially disagree with the Grand Jury’s finding.

CPD maintains complete documentation for its agreements and does not believe its agreement files are inadequate. There is one exception for the Waxie agreement, for which the San Diego County auditors noted that there was not an executed agreement. This agreement was for a promotional event that occurred in both 2012 and 2013 (for a total City/public benefit of \$4,000). The event that Waxie sponsored in 2012 and 2013 was the culmination of an Environmental Services Department/San Diego County Office of

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Education collaboration on a children’s contest in which recycled materials were used in artwork. The revenue was tracked in the City’s financial system, and related documentation is on file with CPD.

Finding 07: *CPD lacks a process for determining the net benefits of agreements.*

Response: The Mayor and City Council disagree with the Grand Jury’s finding.

CPD does not enter into agreements that do not have an inherent net benefit to the City. Each agreement is unique, and the foundation of each partnership is the value to the City, which is carefully reviewed and negotiated by CPD. Additionally, marketing partnerships agreements are often reviewed and approved by the City Council, which also considers the value to the City.

Partnership agreements include one or more of the following benefits: financial – e.g., Toyota partnership provides Lifeguard vehicles the City would otherwise have to purchase or lease; public benefits – e.g., Discover Bike delivers a public bikesharing program, which provides an option for alternative transportation; efficiencies – e.g., Toro Co. has an exclusive agreement to provide golf course maintenance equipment and provides the City with in-kind values for ongoing equipment needs, tournament support, and irrigation support services; and employee benefits – e.g., Sharp HealthCare provides wellness classes and flu vaccinations for City employees (as well as community wellness workshops for San Diego residents).

Finding 08: The Grand Jury report does not include a Finding 08.

Finding 09: *Failure to adequately describe the sponsorship opportunity could reduce the number of potential respondents.*

Response: The Mayor and City Council agree with the Grand Jury’s finding.

Finding 10: *Failure to identify the responsible administrative department can result in lack of accountability in managing an agreement, including lost revenue.*

Response: The Mayor and City Council agree with the Grand Jury’s finding.

RECOMMENDATIONS 18-34 THROUGH 18-36

Recommendation 18-34: *Update City Council Policy 000-40 to:*

- *Include all the types of agreements considered by the CPD Program.*

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- *Require CPD to keep current and accurate records of all agreements, regardless of which department administers them.*
- *Require CPD to document actual revenue collected from each sponsor/partner.*
- *Require CPD’s accounting to distinguish revenue generated from an agreement’s net monetary benefits versus the value of non-revenue items.*
- *Require respondents to RFSs to identify potential conflicts of interest.*
- *Clarify CPD’s reporting requirements on the Program.*

Response: The recommendation has been implemented.

Council Policy 000-40 was updated on October 10, 2018. The definition of marketing partnership agreements was updated in the Council Policy to include all marketing agreements, including sponsorship, licensing, and promotional agreements.

CPD provides assistance to other City departments with respect to the application of the Council Policy. Additionally, other departments will be providing CPD with annual marketing partnership information for agreements valued at \$25,000 or greater, and CPD will be including such information in annual reports. The Policy addresses tracking and reporting partnership benefits, including net revenue, in-kind values, and non-monetary benefits over the course of the agreement. Lastly, the Policy includes a requirement for disclosure of conflicts of interest.

The revised Council Policy does not require CPD to retain records on agreements that are not under its purview. In such cases, the appropriate departments should keep current documentation and records of agreements.

Recommendation 18-35: *Update the CPD Records Disposition Schedule to require CPD to retain all agreement files for the full term of the agreement, plus five years.*

Response: The recommendation has been implemented.

See response to Finding 05.

Recommendation 18-36: *Ensure that all City employees administering CPD agreements receive adequate training in contract administration.*

Response: The recommendation has been implemented.

CPD has developed training for City personnel who administer partnership agreements and will provide such training for these employees on an as-needed basis.

RESOLUTION NUMBER R- 311999

DATE OF FINAL PASSAGE OCT 22 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE CITY COUNCIL'S RESPONSE
TO THE 2017-2018 SAN DIEGO COUNTY GRAND JURY
REPORT TITLED "CITY OF SAN DIEGO CORPORATE
PARTNERSHIP DEVELOPMENT PROGRAM."

WHEREAS, on June 4, 2018, the 2017-2018 San Diego County Grand Jury (Grand Jury) filed a final report titled "City of San Diego Corporate Partnership Development Program" (Report) that requested a response from the Mayor and City Council (Council); and

WHEREAS, the Report discusses issues related to management practices and administration of the Corporate Partnership Development Program; and

WHEREAS, the Report includes nine findings and three recommendations directed to the Mayor and Council; 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, the comments required from the Mayor and Council are due to be submitted to the Presiding Judge of the Superior Court on November 30, 2018, as the City requested and received an extension of time to respond; and

WHEREAS, the response to the Report required that the Mayor and Council respond to Findings 01 through 10 (the Grand Jury report does not include a Finding 08) and to Recommendations 18-34 through 18-36; and

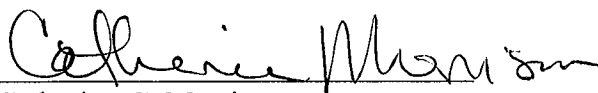
WHEREAS, the Office of the Independent Budget Analyst has proposed a Council response to the Report, which is joined by the Mayor, as set forth in IBA Report No. 18-31, dated September 12, 2018, for the Council's consideration; and

WHEREAS, on September 20, 2018, the proposed joint Mayor and Council response to the Report was submitted to the Budget & Government Efficiency Committee; 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 2017-2018 San Diego County Grand Jury Report titled "City of San Diego Corporate Partnership Development Program," as set forth in IBA Report No. 18-31, dated September 12, 2018.

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 November 30, 2018.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Catherine C. Morrison
Deputy City Attorney

CCM:jvg
October 1, 2018
Or.Dept:IBA
Doc. No.: 1847125_2

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I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 15 2018.

ELIZABETH S. MALAND
City Clerk

By Connie Tatterson
Deputy City Clerk

Approved: 10/22/18
(date)

Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on OCT 15 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 22 2018

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

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

(Seal)

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- <u>311999</u>