CORRECTED COMMUNICATION

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Sachi A. Hamai, Executive Officer-
Clerk of the Board of Supervisors
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

At its meeting held September 26, 2006, the Board took the following action:

26 and 27

The following items were called up for consideration:

26

The Director of Parks and Recreation's attached recommendation to find that services can be performed more economically by an independent contractor; award and instruct the Mayor to sign a two-year contract with Parkwood Landscape Maintenance Inc. for park maintenance services at the La Crescenta Area Parks (5), at a total maximum contract cost of $153,304 per year for two years, effective October 9, 2006 to October 31, 2008, with three one-year renewal options; authorize the Director to execute the contract renewal options annually, and to increase the contract cost by 10% during each contract year for unforeseen services or emergencies, which will increase the total annual contract cost to a maximum of $168,634 for the first two years; and find that project is exempt from the California Environmental Quality Act; and

27

The Director of Parks and Recreation's attached recommendation to find that services can be performed more economically by an independent contractor; approve and instruct the Mayor to sign two-year contract with TruGreen LandCare, Branch 6245, for a total maximum contract cost of $193,138 per year, for park maintenance services at the Belvedere Area Parks (1), effective October 9, 2006 to September 30, 2008, with three one-year renewal options; authorize the Director to exercise the contract renewal options annually, which may include a Cost of Living Adjustment not to exceed three percent per option year and to increase the contract cost by 10% during each contract year, which will increase the total annual contract cost to a maximum of $212,452 for the first two-years; and find that the project is exempt from the California Environmental Quality Act.

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26 and 27 (Continued)

Supervisor Yaroslavsky made the following statement:

"Under Agenda Item Nos. 26 and 27 on today's agenda, the Board is considering approval of park maintenance service contracts for parks in various areas of the County. Each of these contracts is for a two-year period with three one-year renewal options. Each envisions the employment of workers earning the 'Living Wage,' and each anticipates potential Cost of Living Adjustments (COLAs) whereby the Director of Parks and Recreation may increase the contractor's compensation during the option years.

"The COLA option 'was based on the Department's experience that contractors may incur an increase in costs, such as insurance premiums, fuel, etc., during the option years which could impact their performance.' As a result, this provision allows the Director to review cost information and determine if a COLA is justified as determined by the Director and approved by the Chief Administrative Officer.

"However, because these are service contracts, in each case a majority of the contract expense (54.6% and 51.75%, respectively) is consumed by salaries and employee benefits. In each contract the majority of employees earn the Living Wage or slightly more than the Living Wage; in neither contract are the employees represented by a labor union. It is likely that wages will not increase under these contracts and, therefore, that a majority of the contractors' costs will not increase.

"However, under the COLA provision, the contractors will be able to request and receive increases of 3% per year figured over the ENTIRE contract amount. For example, if one contract was worth $100,000 per year of which salaries comprised $50,000, and if nonsalary costs went up 3% ($1,500) but salary costs did not go up at all, and if the contractor received a COLA of 3% or $3,000; then the contractor would not only cover his $1,500 cost increase but also receive an additional $1,500 that is completely unrelated to any increase in the actual 'cost of living.'

"While it is appropriate for the contractors to receive increased compensation for rising costs, such increases should be proportionate to the costs that have actually increased.

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"I therefore recommend that the contracts with Parkwood Landscape Maintenance and TruGreen LandCare, Branch 6245, for park maintenance services at La Crescenta area parks and Belvedere area parks, respectively, be amended to require that those portions of the contractor's compensation that represent the cost of labor be excluded from the calculation of any Cost of Living Adjustment (COLA), unless the contractor can show that his/her labor costs have actually increased; as follows:

'The contract (hourly, daily, monthly, etc.) amount may be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County Area for the most recently published percentage change for the 12-month period preceding the contract anniversary date, which shall be the effective date for any Cost of Living Adjustment. However, any increase shall not exceed the general salary movement granted to County employees as determined by the Chief Administrative Office as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board from approving any increase in County employee salaries, no Cost of Living Adjustments will be granted. <u>Where the County decides to grant a Cost of Living Adjustment pursuant to this paragraph for contract option years, it may, in its sole discretion exclude the cost of labor (including the cost of wages and benefits paid to employees providing services under this contract) from the base upon which a COLA is calculated, unless the contractor can show that his/her labor cost will actually increase.</u>'

"I further recommend that the Board approve and authorize the Director of Parks and Recreation to execute the agreements with Parkwood Landscape Maintenance and TruGreen LandCare, Branch 6245, as amended.

"I further recommend that in the event one or both of these contractors decline to agree to the amendment, authorize the Director of Parks and Recreation to amend the existing parks maintenance agreement(s) to add a month-to-month provision pending further recommendation to the Board of Supervisors.

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"I further recommend that the Board establish a policy requiring that all COLA provisions in Living Wage contracts exclude the cost of labor from the base upon which a COLA is calculated, unless the contractor can show that his/her labor costs will actually increase."

Supervisor Antonovich made the following statement:

"This Board is being asked to consider changing the policy concerning the COLA provisions in Living Wage contracts. A new policy will have a cost impact, as well as other unforeseen impacts on future contracts.

"Parkwood Landscape Maintenance and TruGreen Landcare bid on the contracts before us today through a fair Request for Proposals process, and were selected by the Department of Parks and Recreation as the lowest responsive bidders.

"I therefore recommend that the Board of Supervisors:

1. Direct the Chief Administrative Officer to work in conjunction with the Director of Personnel to determine the impacts of having all COLA provisions in Living Wage contracts excluding the cost of labor from the base upon which a COLA is calculated, and report back to the Board in 30 days; and

2. Approve Agenda item Nos. 26 and 27 as is with a re-opener clause, since both contracts meet all of the existing County policies regarding contracting."

Supervisor Burke made the following statement:

"In June 1999, the Los Angeles County Board of Supervisors adopted the Living Wage Program: Chapter 2.201 of Title 2 Administration, requiring contractors doing business with the County of Los Angeles to provide their employees with a minimum 'liveable' wage. Among the many advantages of enacting this public policy, this Board cited indirect benefits of promoting self-sufficiency for contract employees such as cost savings to our public healthcare system and State and Federal public assistance programs.

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"Today, seven years after the implementation of the Living Wage Program, residents of the County of Los Angeles are facing a substantially higher cost of living due to very large increases in the housing market and ever increasing healthcare costs. Our contract employees are not immune to such drastic costs of living. Unfortunately, the Living Wage, as adopted in 1999 at $8.32 an hour with health benefits and $9.46 an hour without, is inadequate to fully achieve the original intent of this Board.

"We are currently operating under a more stable County budget. However, the significantly increased cost of living compels me to believe that it is now time to revisit the original minimum living wage amounts enacted by this Board as part of the Program. Additionally, it is imperative that we also address the rising healthcare costs born by contract employees who receive healthcare benefits with copayments that may be substantially higher than those born by County employees.

"I therefore recommend that the Board of Supervisors direct the Chief Administrative Officer to work with the Auditor-Controller, Affirmative Action Compliance Officer, Director of Internal Services and County Counsel to examine the following objectives regarding the Living Wage Program:

1). Validate and update, as necessary, the Chief Administrative Officer's recommended methodology for calculating increases to the current Living Wage amounts as outlined in his memo to the Board dated April 27, 2004;

2). Using the prescribed methodology and formula, determine updated Living Wage amounts for employees subject to the ordinance, both those employees receiving health benefits and those who do not;

3). Examine the feasibility of establishing a mechanism to review and update, as appropriate, the Living Wage amounts on an annual basis - with an accompanying report to the Board 30 days prior to the execution of any annual change, as needed;

4). Examine the development of contract language which would cap employer provided healthcare plan copayments to amounts commensurate with the average copayment terms for County employees; and

5). Examine the feasibility of updating the Countywide Contract Monitoring System (CCMS) and/or Contract Data Base (CDB) to enable more precise tracking and calculations of the costs associated with the Living Wage Program.

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"Finally I recommend that this Board direct the above-referenced departments to jointly report back their findings, recommendations and proposed Ordinance amendment language, as appropriate, to update the Living Wage Program amounts and policies as described herein within 45 days."

David E. Janssen, Chief Administrative Officer, and Raymond G. Fortner, Jr., County Counsel, responded to questions posed by the Board.

After discussion, Supervisors Molina and Yaroslavsky made a suggestion that Supervisor Antonovich's recommendation be amended to remove his recommendation No. 2. Supervisor Antonovich accepted Supervisors Molina and Yaroslavsky's amendment.

On motion of Supervisor Yaroslavsky, seconded by Supervisor Burke, unanimously carried, the Board took the following actions:

1. Amended the Director of Parks and Recreation's attached contracts with Parkwood Landscape Maintenance and TruGreen LandCare, Branch 6245 for park maintenance services at La Crescenta Area Parks and Belvedere Area Parks, respectively, to require that those portions of the contractor's compensation that represent the cost of labor be excluded from the calculation of any Cost of Living Adjustment (COLA), unless the contractor can show that his/her labor costs have actually increased; as follows:

   "The contract (hourly, daily, monthly, etc.) amount may be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County Area for the most recently published percentage change for the 12-month period preceding the contract anniversary date, which shall be the effective date for any Cost of Living Adjustment. However, any increase shall not exceed the general salary movement granted to County employees as determined by the Chief Administrative Office as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board from approving any increase in County employee salaries, no Cost of Living Adjustments will be granted. Where the County decides to grant a Cost of Living Adjustment pursuant to this paragraph for contract option years, it may, in its sole discretion exclude the cost of labor (including the cost of wages and benefits paid to employees providing services under this contract) from the base upon which a COLA is calculated, unless the contractor can show that his/her labor cost will actually increase;"

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2. Approved and authorized the Director of Parks and Recreation to execute the agreements with Parkwood Landscape Maintenance and TruGreen LandCare, Branch 6245, as amended;

3. Authorized the Director of Parks and Recreation, in the event that Parkwood Landscape Maintenance and TruGreen LandCare, Branch 6245 decline to agree to the amendment, to amend the existing parks maintenance agreements to add a month-to-month provision pending further recommendation to the Board of Supervisors;

~~4. Established a policy requiring that all COLA provisions in Living Wage contracts exclude the cost of labor from the base upon which a COLA is calculated, unless the contractor can show that his/her labor costs will actually increase;~~

~~5.~~ 4. Instructed the Chief Administrative Officer to work in conjunction with the Director of Personnel to determine the impacts of having all COLA provisions in Living Wage contracts excluding the cost of labor from the base upon which a COLA is calculated, and report back to the Board in 30 days; and

~~6.~~ 5. Instructed the Chief Administrative Officer to work with the Auditor-Controller, Affirmative Action Compliance Officer, Director of Internal Services and County Counsel to examine the following objectives regarding the Living Wage Program:

- Validate and update, as necessary, the Chief Administrative Officer's recommended methodology for calculating increases to the current living wage amounts as outlined in his memo to the Board dated April 27, 2004;

- Using the prescribed methodology and formula, determine updated living wage amounts for employees subject to the ordinance, both those employees receiving health benefits and those who do not;

- Examine the feasibility of establishing a mechanism to review and update, as appropriate, the living wage amounts on an annual basis - with an accompanying report to the Board 30 days prior to the execution of any annual change, as needed;

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- Examine the development of contract language which would cap employer provided healthcare plan copayments to amounts commensurate with the average copayment terms for County employees; and

- Examine the feasibility of updating the Countywide Contract Monitoring System and/or Contract Data Base to enable more precise tracking and calculations of the costs associated with the Living Wage Program; and

~~7.~~ 6. Instructed the Chief Administrative Officer, Director of Personnel, the Auditor-Controller, Affirmative Action Compliance Officer, Director of Internal Services and County Counsel to jointly report back their findings, recommendations and proposed Ordinance amendment language, as appropriate, to update the Living Wage Program amounts and policies as described herein within 45 days.

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Attachments

Copies distributed:
Each Supervisor
Affirmative Action Compliance Officer
Auditor-Controller
Chief Administrative Officer
County Counsel
Director of Internal Services
Director of Parks and Recreation
Director of Personnel