

**From:** [August, J.W \(NBCUniversal\)](#)  
**To:** [Walsh, Lynn \(NBCUniversal\)](#)  
**Subject:** FW: Public Records Request  
**Date:** Thursday, July 14, 2016 11:23:38 AM

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**From:** August, J.W (NBCUniversal)  
**Sent:** Thursday, March 24, 2016 2:19 PM  
**To:** publicrecords@civicsd.com  
**Cc:** daniel.kay@civicsd.com; August, J.W (NBCUniversal)  
**Subject:** Public Records Request

March 24, 2016

Civic San Diego  
Public Records Request  
Cc: phone call to Daniel Kay, PIO for Civic San Diego

Pursuant to my rights as set forth in the California Public Records Act, Government Code Section 6250 et seq., I ask to inspect and or copy the following documents:

Copies of all summary reports of business conducted at meetings of the Executive Committee for a period commencing with the receipt of this request, back one year in time.

To speed this process, I have provided the following from your bylaws:

7.3 Executive Committee. Pursuant to Section 7.1, the Board may appoint an Executive Committee composed of three (3) or more Directors, one of whom shall be the Chairperson. The Executive Committee, unless limited in a resolution of the Board, shall have and may exercise all the authority of the Board in the management of the business and affairs of the Corporation between meetings of the Board; provided, however, that the Executive Committee shall not have the authority of the Board in reference to those matters enumerated in Section 6.1. The Secretary shall send to each Director a summary report of the business conducted at any meeting of the Executive Committee

Please comply with Section 6253.1 of the Government Code and assist us with this records request if necessary. As you know the law requires you to provide suggestions for overcoming any practical basis for denying access to records that are sought. You are required to search your records and make reasonable efforts to seek clarifying information from us if it is necessary to help identify the records requested. I ask for a written response to this request within the time mandated by the Act. The documents should include any relevant documents created up to and including the date of your response to this request.

If you determine that some but not all of the information is exempt from disclosure, please redact the information in question for the time being and make the rest available as requested. If you withhold any information, I request you cite the legal authority in writing. I will pay any reasonable costs up to one-hundred (\$100) for the production of the requested materials.

Please contact me immediately if you have any questions. Thank you for your prompt attention to this matter.

Sincerely,

JW August  
Investigative Producer  
KNSD  
San Diego, California, 92102

1 619 992 2210

**From:** [August, J.W \(NBCUniversal\)](#)  
**To:** [Walsh, Lynn \(NBCUniversal\)](#)  
**Subject:** FW: Public Records Request  
**Date:** Thursday, July 14, 2016 11:22:40 AM  
**Attachments:** [image001.png](#)  
[02.24.16.pdf](#)  
[03.09.16.pdf](#)  
[04.29.15.pdf](#)  
[05.20.15.pdf](#)  
[06.10.15.pdf](#)  
[07.15.15.pdf](#)  
[09.30.15.pdf](#)  
[12.09.15.pdf](#)

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**From:** Lisa Greeson [mailto:greeson@civicsd.com]  
**Sent:** Friday, April 01, 2016 3:00 PM  
**To:** August, J.W (NBCUniversal)  
**Subject:** RE: Public Records Request

Dear Mr. August,

Civic San Diego conducted a search of its records and has determined that records responsive to your request exist. These records are attached to this correspondence in electronic format, per your request.

Best regards,

Lisa Greeson



**Lisa M. Greeson, SPHR**  
Assistant Vice President, Human Resources & Compliance  
Civic San Diego  
401 B Street, Suite 400  
San Diego, CA 92101  
Ph: (619) 533-7165  
Fax: (619) 236-9148  
[greeson@civicsd.com](mailto:greeson@civicsd.com)

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**From:** August, J.W (NBCUniversal) [mailto:[JW.August@nbcuni.com](mailto:JW.August@nbcuni.com)]

**Sent:** Thursday, March 24, 2016 2:19 PM  
**To:** Public Records  
**Cc:** [daniel.kay@civicsd.com](mailto:daniel.kay@civicsd.com); August, J.W (NBCUniversal)  
**Subject:** Public Records Request

March 24, 2016

Civic San Diego  
Public Records Request  
Cc: phone call to Daniel Kay, PIO for Civic San Diego

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If you determine that some but not all of the information is exempt from disclosure, please redact the information in question for the time being and make the rest available as requested. If you withhold any information, I request you cite the legal authority in writing. I will pay any reasonable costs up to one-hundred (\$100) for the production of the requested materials.

Please contact me immediately if you have any questions. Thank you for your prompt attention to this matter.

Sincerely,

JW August  
Investigative Producer  
KNSD  
San Diego, California, 92102

1 619 992 2210

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Please Note: This email communication may be subject to the California Public Records Act and may be viewed by third parties upon request.



Item #3a

MINUTES

CIVIC SAN DIEGO  
EXECUTIVE COMMITTEE  
MEETING OF  
WEDNESDAY, FEBRUARY 24, 2016

CALL TO ORDER: Chair Gattas called the meeting of the Civic San Diego (“CivicSD”) Executive Committee (“Committee”) to order at 4:54 p.m. in the Board Room, CivicSD, 401 B Street, Suite 400, San Diego.

PRESENT: Chair Jeff Gattas and Directors Donna Jones, Michael Jenkins, and Theodore Shaw

EXCUSED: Vice Chair Richard Geisler

**Item #2: Non-Agenda Public Comment**

None.

**Item #3: Approval of the Minutes of December 9, 2016**

Director Jenkins moved and Director Jones seconded a motion for approval of the minutes. Chair Gattas, Directors Jenkins and Jones voted “Aye;” Director Shaw abstained. **The motion passed.**

**Item #4: Potential Agenda Items – Committee Discussion**

None.

**Item #5: Disclosures**

None.

**CLOSED SESSION**

At 5:00 p.m. CivicSD Legal Counsel Shawn Hagerty announced that the Committee would adjourn into Closed Session to discuss the matter listed in agenda Item #6.

**Item #6: Closed Session**

Closed Session

PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Gov. Code section 54957)  
Title: President

PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Gov. Code section 54957)  
Title: Chief Financial Officer

**Item #7:      Announcement of Actions Taken at Closed Session**

The Executive Committee met in Closed Session to discuss the two items listed under Item #6 – Public Employee Performance Evaluation, President and Chief Financial Officer. Discussion occurred but no reportable action took place.

ADJOURNMENT ~ The meeting was adjourned at 5:30 p.m.



Item #3b

MINUTES

CIVIC SAN DIEGO  
EXECUTIVE COMMITTEE  
SPECIAL MEETING OF  
WEDNESDAY, MARCH 9, 2016

CALL TO ORDER: Acting Chair Geisler called the meeting of the Civic San Diego (“CivicSD”) Executive Committee (“Committee”) to order at 11:25 a.m. in the Board Room, CivicSD, 401 B Street, Suite 400, San Diego.

PRESENT: Acting Chair Richard Geisler and Directors Donna Jones, Michael Jenkins, and Theodore Shaw

EXCUSED: Chair Jeff Gattas

**Item #2: Non-Agenda Public Comment**

None.

**Item #3: Potential Agenda Items – Committee**

None.

**Item #4: Disclosures**

None.

**CLOSED SESSION**

At 11:35 a.m. CivicSD Legal Counsel Shawn Hagerty announced that the Committee would adjourn into Closed Session to discuss the matter listed in agenda Item #5.

**Item #5: Closed Session**

PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Gov. Code section 54957)  
Title: President

PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Gov. Code section 54957)  
Title: Chief Financial Officer

**Item #6:      Announcement of Actions Taken at Closed Session**

The Executive Committee met in Closed Session to discuss the two items listed under Item #5 – Public Employee Performance Evaluation, President and Chief Financial Officer. Discussion occurred, direction was given to staff, but no reportable action took place.

ADJOURNMENT ~ The meeting was adjourned at 11:45 a.m.





MINUTES

Item #3b

FOR THE  
EXECUTIVE COMMITTEE MEETING OF  
CIVIC SAN DIEGO

WEDNESDAY, APRIL 29, 2015  
12:00 P.M.

BOARD ROOM  
CIVIC SAN DIEGO  
401 B STREET, SUITE 400  
SAN DIEGO, CA

CALL TO ORDER: Chair Gattas called the meeting of the Executive Committee (“Committee”) of Civic San Diego (“CivicSD”) to order at 12:04 p.m. in the Board Room, CivicSD, 401 B Street, Suite 400, San Diego

PRESENT: Chair Jeff Gattas, Vice Chair Richard Geisler, Directors Carlos Vasquez, Michael Jenkins and Donna Jones

**Item #2: Non-Agenda Public Comment**

None.

**CLOSED SESSION**

At 12:05 p.m., CivicSD Legal Counsel Shawn Hagerty announced that the Committee would adjourn into Closed Session to discuss the matter listed in agenda Item #3A.

**Item #3: Closed Session**

- A. PUBLIC EMPLOYMENT (Gov. Code section 54957)  
TITLE: CHIEF FINANCIAL OFFICER/CHIEF OPERATING OFFICER

**Item #4: Announcement Of Actions Taken At Closed Session**

- A. PUBLIC EMPLOYMENT (Gov. Code section 54957)  
TITLE: CHIEF FINANCIAL OFFICER/CHIEF OPERATING OFFICER

**Closed Session Report:**

The Board met in Closed Session to discuss the item listed under Item #3A. Discussion was had and the Committee reached a recommendation that would be presented at the full Board meeting under the appropriate item. No other recordable action was taken.

ADJOURNMENT ~ The meeting was adjourned at 12:34 p.m.



MINUTES

Item #3

FOR THE  
EXECUTIVE COMMITTEE MEETING OF  
CIVIC SAN DIEGO

WEDNESDAY, MAY 20, 2015

11:30 A.M.

BOARD ROOM  
CIVIC SAN DIEGO  
401 B STREET, SUITE 400  
SAN DIEGO, CA

CALL TO ORDER: Chair Gattas called the meeting of the Executive Committee (“Committee”) of Civic San Diego (“CivicSD”) to order at 11:35 a.m. in the Board Room, CivicSD, 401 B Street, Suite 400, San Diego

PRESENT: Chair Jeff Gattas, Vice Chair Richard Geisler, Directors Carlos Vasquez and Michael Jenkins

EXCUSED: Director Donna Jones

Item #2: Non-Agenda Public Comment

None.

Item #3: Approval of the Minutes of:

a. Meeting of October 22, 2014

Director Jenkins moved and Director Vasquez seconded a motion for approval of the minutes. Chair Gattas, Directors Vasquez and Jenkins voted “Aye;” Vice Chair Geisler abstained. **The motion passed.**

b. Meeting of April 29, 2015

Director Jenkins moved and Director Vasquez seconded a motion for approval of the minutes. Chair Gattas, Vice Chair Geisler, Directors Vasquez and Jenkins voted “Aye.” **The motion passed.**

CLOSED SESSION

At 11:40 a.m., CivicSD Legal Counsel Shawn Hagerty announced that the Committee would adjourn into Closed Session to discuss the matter listed in agenda Item #4.

**Item #4: Closed Session**

PUBLIC EMPLOYMENT (Gov. Code section 54957)

TITLE: CHIEF FINANCIAL OFFICER/CHIEF OPERATING OFFICER

**Item #5: Announcement of Actions Taken at Closed Session**

PUBLIC EMPLOYMENT (Gov. Code section 54957)

TITLE: CHIEF FINANCIAL OFFICER/CHIEF OPERATING OFFICER

**Closed Session Report:**

The Executive Committee met in Closed Session to discuss the item listed under Item #4. Discussion was had and the Committee provided direction to staff regarding the recruitment for a Chief Financial Officer/Chief Operating Officer position. No other recordable action was taken.

**Item #6: Discussion of Vision & Strategy for Civic San Diego and Operational Support to Achieve Vision – General**

Chair Gattas introduced the item to provide the Committee an opportunity to share an organizational plan, ideas, goals and visions of CivicSD with President Reese A. Jarrett. Chair Gattas requested that President Jarrett present his organizational plan and vision with the Committee at the next meeting.

President Jarrett indicated the item was an important part of moving forward for the upcoming fiscal year and implementation of a strategic plan for the corporation. He stated that his priorities reside in the wind-down of redevelopment and a Long-Range Property Management Plan for economic development strategies. Other priorities included implementation of the complete community goals in the downtown area related to parks, fire and safety.

Vice Chair Geisler stated the importance of economic development and the New Markets Tax Credits program. He commented on challenges with funding sources and shared that the focus should be on Downtown.

Director Jenkins shared the importance of understanding the unique capabilities of the corporation and carrying out projects; property management, financing, engineering, contract management, and working with communities. The focus should be on low-income neighborhoods that need new investments. He noted to be mindful of the goals that benefit communities and the importance of infrastructure. He also commented on seeking out opportunities to partner with existing community-based organizations.

Chair Gattas stated that concentration should remain in Downtown as it relates to design review and permitting. Other elements to pursue would be public/private partnerships, economic growth, and continuation of working with our partners to develop affordable housing and create jobs.

Director Geisler contributed additional comments that related to economic growth, development and job creation. He also thought working with an architectural committee or groups would be beneficial to bringing superior architecture Downtown.

**Item #7:**      **Update on Contractual Relationship with the City of San Diego and Report on AB 504 – General**

Legal Counsel Shawn Hagerty presented the item and provided an update on the Consultant Agreement and limitations regarding AB 504. President Jarrett shared that the Bill passed Assembly and is currently with the Senate.

**ADJOURNMENT** ~ The meeting was adjourned at 12:30 p.m.



**MINUTES**

**CIVIC SAN DIEGO  
EXECUTIVE COMMITTEE  
MEETING OF  
WEDNESDAY, JUNE 10, 2015**

**CIVIC SAN DIEGO  
BOARD ROOM  
401 B STREET, SUITE 400  
SAN DIEGO, CA**

**CALL TO ORDER:** Chair Gattas called the meeting of the Civic San Diego (“CivicSD”) Executive Committee (“Committee”) to order at 9:01 a.m. in the Board Room, CivicSD, 401 B Street, Suite 400, San Diego.

**PRESENT:** Chair Jeff Gattas and Directors Donna Jones, Carlos Vasquez and Michael Jenkins

**EXCUSED:** Vice Chair Richard Geisler

**Item #2: Non-Agenda Public Comment**

None.

**Item #3: Approval of the Minutes of May 20, 2015**

Director Jenkins moved and Director Vasquez seconded a motion for approval of the minutes. Chair Gattas and Directors Vasquez and Jenkins voted “Aye;” Director Jones abstained. **The motion passed.**

**Item #4: Operating and Agency Agreement and Community Benefits Agreement Update – Informational – General**

President Reese A. Jarrett provided an update on the Agreements. President Jarrett informed that the City of San Diego Economic Development and Intergovernmental Relations Committee met on June 4, 2015 and consolidated the existing Consulting Agreement between CivicSD and the City of San Diego with the new Operating and Agency Agreements.

Legal Counsel Shawn Hagerty explained that the centerpiece of the Agreement was the annual Work Plan for CivicSD. The Work Plan would provide the City Council with an opportunity to exercise oversight. Mr. Hagerty noted that the City Attorney's Office concluded that the Agency Agreement would govern permitting functions that CivicSD performs as an agent of the City. He also explained that the Agreements would not expand CivicSD's purview or permitting process and that the Agreement would proceed to City Council.

Chair Gattas shared that the Community Benefits Agreement was referred back to CivicSD with no specific recommendations from the City Council, and that it was a working document.

Committee members inquired about the status of the Mind Mixer component regarding the Community Benefits outreach efforts. President Jarrett explained that the Mind Mixer was extended until the end of the month and a compiled report would be forthcoming. Director Jones suggested the use of the Internet and innovative ways to capture input from the public.

**Item #5: Appointment and Selection of Officers – Informational – General**

Chair Gattas introduced the item and Legal Counsel Shawn Hagerty provided an overview of the current process. Chair Gattas suggested an open discussion with the Committee followed by suggestions for President Jarrett and Mr. Hagerty with a request to return with recommendations.

Director Jenkins inquired if CivicSD was in state compliance as a membership non-profit corporation. Mr. Hagerty provided assurance that the Committee was in compliance with the Annual Meeting and would address the issue again with the City Attorney's office. Director Jenkins requested a meeting with Mr. Hagerty to discuss a clear process of the selection process.

Director Jones suggested that the past Chair and immediate Chair meet to provide a slate of recommendations to Board Members and solicit input. She recommended that the final list be presented to the Executive Committee.

**CLOSED SESSION**

At 9:28 a.m., CivicSD Legal Counsel Shawn Hagerty announced that the Committee would adjourn into Closed Session to discuss the matter listed in agenda Item #6.

**Item #6: Closed Session**

**PUBLIC EMPLOYMENT (Gov. Code section 54957)**  
**TITLE: CHIEF FINANCIAL OFFICER**

**Item #7:**      **Announcement of Actions Taken at Closed Session**  
**PUBLIC EMPLOYMENT (Gov. Code section 54957)**  
**TITLE: CHIEF FINANCIAL OFFICER**

**Closed Session Report:**

The Executive Committee met in Closed Session to discuss the item listed under Item #6. The Committee engaged in discussion and provided direction regarding the recruitment process and details of the Chief Financial Officer's position description. Included in that direction was the establishment of an Ad Hoc Committee consisting of Assistant Vice President, Human Resources & Compliance/Interim Chief Financial Officer Lisa Greeson, President Reese A. Jarrett, and another member of staff as selected by Ms. Greeson and Mr. Jarrett. Director Jenkins was designated to serve as panel Chair for the Executive Committee and will work with the Ad Hoc Committee regarding the interview process.

No other recordable action was taken.

**ADJOURNMENT** ~ The meeting was adjourned at 10:06 a.m.



Item #3

MINUTES

CIVIC SAN DIEGO  
EXECUTIVE COMMITTEE  
MEETING OF  
WEDNESDAY, JULY 15, 2015

CIVIC SAN DIEGO  
BOARD ROOM  
401 B STREET, SUITE 400  
SAN DIEGO, CA

CALL TO ORDER: Acting Chair Geisler called the meeting of the Civic San Diego (“CivicSD”) Executive Committee (“Committee”) to order at 10:28 a.m. in the Board Room, CivicSD, 401 B Street, Suite 400, San Diego

PRESENT: Acting Chair Richard Geisler and Directors Donna Jones, Carlos Vasquez, and Michael Jenkins

EXCUSED: Chair Jeff Gattas

**Item #2: Non-Agenda Public Comment**

None.

Director Jenkins requested that the following agenda items be added to the next Executive Committee meeting: Amendments to the CivicSD Bylaws; Annual Meeting; and, membership criteria of the Board.

**Item #3: Approval of the Minutes of June 10, 2015**

Director Jones moved and Director Jenkins seconded a motion for approval of the minutes. Directors Jones, Vasquez and Jenkins voted “Aye;” Acting Chair Geisler abstained. **The motion passed.**

**Item #4: Performance Evaluation Process for the Civic San Diego President and Chief Financial Officer – General**

Acting Chair Geisler opened the discussion on the evaluation process and Legal Counsel Shawn Hagerty stated that the CivicSD Bylaws have a process in place to review the compensation component of the President and Chief Financial Officer, but there was not a specific process in place for the performance evaluation process.



Mr. Hagerty suggested best practices be identified. Key elements would be setting performance goals for next year's review and the creation of a process by which the full Board could provide feedback to identify performance areas and establish a follow up process.

Assistant Vice President Lisa M. Greeson suggested evaluating set standards against which to measure performance. The first piece would be to convene as a group and make a decision on the standards, as well as achievement of specific priorities, public relations advocacy, the need to decide the categories to use to evaluate each person, and set specific measurable objectives. A calendar would also be established to outline the dates that each piece of the process would be accomplished.

President Jarrett stated the proposed City Council Operating Agreement included that a work plan be established to determine the priorities of the corporation. The due date of the report is February 2016.

Director Jones suggested circulating the President and Chief Financial Officer's job description to the Committee for their review and input. It was also suggested for President Jarrett and Ms. Greeson to create a list of suggestions to add to the job criteria.

Director Jenkins asked to establish an efficient process for a time frame for the evaluations and suggested making the process into a policy for the performance evaluation of the President and Chief Financial Officer. The month of August was suggested.

Director Vasquez suggested the Executive Committee meet in September to allow time for an outline to be created with goals and objectives for both positions.

Corporate Counsel Shawn Hagerty suggested that the first performance evaluation be conducted in November, which is the one-year anniversary of President Jarrett's hire date.

**Item #5: Process for the Appointment and Selection of Officers, Committee Members and Committee Chairs – General**

Acting Chair Geisler introduced the item and discussed adoption of a formal process for the selection of officers and committee assignments.

Executive Committee members engaged in discussion on various parameters regarding a formal process.

**Motion:** Director Vasquez moved and Director Jones seconded a motion that:

1. At the October regular Board meeting, the Chair would announce to the Board that the Chair will be developing a recommended slate of officers and Committee assignments, and solicit interest from the Board members. Individual members may express interest at that meeting or thereafter.

2. At the November Executive Committee meeting, the Chair would propose a slate for the Committees' consideration. The Committee would consider the slate, modify it if desired, and formalize a recommendation to the full Board.
3. At the annual meeting in January, the Board would consider the slate recommended by the Executive Committee and Chair. Board members would have the opportunity to make nominations different than as proposed in the slate, but absent new nominations the slate will be acted on as one item.

**Vote:** Acting Chair Geisler and Directors Jones, Jenkins and Vasquez voted "Aye." **The motion passed.**

Executive Committee members recommended that this process be included in the CivicSD policies. If the Board was in agreement with the recommendation from the Executive Committee, it could approve the recommendations and staff would bring back a policy reflecting this approved approach through the normal policy adoption process.

**ADJOURNMENT** ~ The meeting was adjourned at 11:03 a.m.



**Item #3**

**MINUTES**

**CIVIC SAN DIEGO  
EXECUTIVE COMMITTEE  
MEETING OF  
WEDNESDAY, SEPTEMBER 30, 2015**

**CIVIC SAN DIEGO  
BOARD ROOM  
401 B STREET, SUITE 400  
SAN DIEGO, CA**

**CALL TO ORDER:** Chair Gattas called the meeting of the Civic San Diego (“CivicSD”) Executive Committee (“Committee”) to order at 12:03 p.m. in the Board Room, CivicSD, 401 B Street, Suite 400, San Diego

**PRESENT:** Chair Jeff Gattas and Directors Richard Geisler, Carlos Vasquez, and Michael Jenkins

**EXCUSED:** Donna Jones

**Item #2**      **Non-Agenda Public Comment**

None.

**Item #3**      **Approval of the Minutes of the Meeting of July 15, 2015**

Director Vasquez moved and Director Jenkins seconded a motion for approval of the minutes. Directors Geisler, Vasquez and Jenkins voted “Aye;” Chair Gattas abstained. **The motion passed.**

**Item #4**      **Potential Agenda Items – Committee Discussion – General**

None.

**Item #5**      **Disclosures – Ex Parte Communications – General**

None.

**Item #6**      **Performance Evaluation Process For The Civic San Diego President And Chief Financial Officer – General**

Assistant Vice President, Human Resources & Compliance/Interim Chief Financial Officer Lisa Greeson presented the item and provided an overview of the proposed performance evaluation process.

Responding to Committee questions, Legal Counsel Shawn Hagerty provided clarification regarding the assessment and compensation process.

The Committee referenced Section 5.4.8 and suggested amending the language referring to the Vice Chair to read “another member.” It was also suggested to add a section stating that the Executive Committee would be able to review the final drafted evaluation and provide a recommendation to the Board. This would also include linking the Timing and Responsibilities process.

**Motion:**      Director Geisler moved and Director Jenkins seconded a motion to approve the staff recommendation with the following changes:

- Section 5.4.8 – Amend the language to read “...Chair, Vice Chair or another Executive Committee member designated by the Chair” to provide input.
- Linking this process with the Compensation Process and cross reference the Bylaws that deal with compensation adding clarity that the Executive Committee will hold a full meeting and assess and make a recommendation on both performance and compensation to the Board.
- Update Section 5.4.9 – Related to the Vice Chair Role in the evaluation process.
- Review Exhibit A – Recommend or not to include specifics on Open and Closed Sessions.
- Add a new section to specify that the Executive Committee reviews the final drafted evaluation and provides a recommendation to the Board.

**Vote:**      Chair Gattas and Directors Geisler, Vasquez and Jenkins voted “Aye.” The motion passed.

**ADJOURNMENT** ~ The meeting was adjourned at 12:25 p.m.



**Item #3**

**MINUTES**

**CIVIC SAN DIEGO  
EXECUTIVE COMMITTEE  
MEETING OF  
WEDNESDAY, DECEMBER 9, 2015**

**CIVIC SAN DIEGO  
BOARD ROOM  
401 B STREET, SUITE 400  
SAN DIEGO, CA**

**CALL TO ORDER:** Chair Gattas called the meeting of the Civic San Diego (“CivicSD”) Executive Committee (“Committee”) to order at 12:30 p.m. in the Board Room, CivicSD, 401 B Street, Suite 400, San Diego

**PRESENT:** Chair Jeff Gattas, Vice Chair Richard Geisler, and Directors Carlos Vasquez, Donna Jones, and Michael Jenkins

**Item #2:      Non-Agenda Public Comment**

Katheryn Rhodes distributed a hand out and commented about the HUD debt and the changes that had been made to the ROPS9 spreadsheet.

**Item #3:      Approval of the Minutes of the Meeting of September 30, 2015**

Director Vasquez moved and Director Jenkins seconded a motion for approval of the minutes. Chair Gattas, Vice Chair Geisler, and Directors Vasquez and Jenkins voted “Aye;” Donna Jones abstained. **The motion passed.**

**Item #4:      Potential Agenda Items – Committee Discussion – General**

Director Jenkins requested the following discussion topics for upcoming agenda items: affordable housing policies; AB504 process discussion; and evaluation process for President and Chief Financial Officer.

**Item #5:      Disclosures – Ex Parte Communications – General**

None.

**Item #6**      **Appointment and Selection of Officers, Committee Members and Committee Chairs – General**

Based on the new selection process approved by the Board Members, Chair Gattas presented a list of recommendations of appointments and selection of Officers, Committee Members and Committee Chairs.

**Motion:**      Vice Chair Geisler moved and Director Jones seconded a motion for approval of the proposed slate for the Appointments and Selection of Officers, Committee Members and Committee Chairs.

**Vote:**          Chair Gattas, Directors Geisler, Jones, Vasquez and Jenkins voted “Aye.” The motion passed.

**Item #7**      **Recommended Changes to Civic San Diego’s Bylaws – General**

Director Jenkins provided background material on recommended changes to the Bylaws, which consisted of the following:

- Annual Meeting – request for explicit language (Annual meeting vs. Regular meeting);
- Replacement of Redevelopment with Architecture as one of the relevant business experiences of Members of the Board; and
- Add a requirement that three members of the Board are residents of the City of San Diego.

Legal Counsel Shawn Hagerty clarified that CivicSD is in compliance with all Bylaws and that all revisions must go to City Council to initiate any changes. A complete review of the Bylaws should be combined with the review of the Operating Agreement.

Also, CivicSD does not adopt the Bylaws, but can propose amendments to the City Council. The last revision to the CivicSD Bylaws was 2012.

**ADJOURNMENT** ~ The meeting was adjourned at 12:55 p.m.

**From:** [August, J.W \(NBCUniversal\)](#)  
**To:** [Walsh, Lynn \(NBCUniversal\)](#)  
**Subject:** FW: Public Records Request 2  
**Date:** Thursday, July 14, 2016 11:23:04 AM

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**From:** August, J.W (NBCUniversal)  
**Sent:** Thursday, March 24, 2016 3:43 PM  
**To:** publicrecords@civicsd.com  
**Cc:** kay@civicsd.com  
**Subject:** Public Records Request 2

March 24, 2016

Civic San Diego  
Public Records Request  
2 of 2  
Cc: Daniel Kay, PIO for Civic San Diego

Pursuant to my rights as set forth in the California Public Records Act, Government Code Section 6250 et seq., I ask to inspect and or copy the following documents:

**A breakdown of each employee's salary information for the 40 positions that have been budgeted since it is not disclosed in your budget documents.**

Please comply with Section 6253.1 of the Government Code and assist us with this records request if necessary. As you know the law requires you to provide suggestions for overcoming any practical basis for denying access to records that are sought. You are required to search your records and make reasonable efforts to seek clarifying information from us if it is necessary to help identify the records requested. I ask for a written response to this request within the time mandated by the Act. The documents should include any relevant documents created up to and including the date of your response to this request.

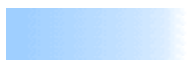
If you determine that some but not all of the information is exempt from disclosure, please redact the information in question for the time being and make the rest available as requested. If you withhold any information, I request you cite the legal authority in writing. I will pay any reasonable costs up to one-hundred (\$100) for the production of the requested materials.

Please contact me immediately if you have any questions. Thank you for your prompt attention to this matter.

Sincerely,

JW August  
Investigative Producer  
KNSD  
San Diego, California, 92102

1 619 992 2210





**From:** [August, J.W \(NBCUniversal\)](#)  
**To:** [Walsh, Lynn \(NBCUniversal\)](#)  
**Subject:** FW: Public Records Request 2  
**Date:** Thursday, July 14, 2016 11:22:49 AM  
**Attachments:** [image003.png](#)  
[img-401110335-0001.pdf](#)

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**From:** Lisa Greeson [mailto:greeson@civicsd.com]  
**Sent:** Friday, April 01, 2016 12:30 PM  
**To:** August, J.W (NBCUniversal)  
**Subject:** RE: Public Records Request 2

Dear Mr. August,

Civic San Diego conducted a search of its records and has determined that records responsive to your request exist. Those records are attached to this correspondence in electronic format, per your request.

Best regards,

Lisa Greeson



**Lisa M. Greeson, SPHR**

Assistant Vice President, Human Resources & Compliance  
Civic San Diego  
401 B Street, Suite 400  
San Diego, CA 92101  
Ph: (619) 533-7165  
Fax: (619) 236-9148  
[greeson@civicsd.com](mailto:greeson@civicsd.com)

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**From:** August, J.W (NBCUniversal) [mailto:[JW.August@nbcuni.com](mailto:JW.August@nbcuni.com)]  
**Sent:** Thursday, March 24, 2016 3:43 PM  
**To:** Public Records  
**Cc:** Daniel Kay  
**Subject:** Public Records Request 2

March 24, 2016

Civic San Diego  
Public Records Request  
2 of 2  
Cc: Daniel Kay, PIO for Civic San Diego

Pursuant to my rights as set forth in the California Public Records Act, Government Code Section 6250 et seq., I ask to inspect and or copy the following documents:

**A breakdown of each employee's salary information for the 40 positions that have been budgeted since it is not disclosed in your budget documents.**

Please comply with Section 6253.1 of the Government Code and assist us with this records request if necessary. As you know the law requires you to provide suggestions for overcoming any practical basis for denying access to records that are sought. You are required to search you records and make reasonable efforts to seek clarifying information form us if it is necessary to help identify the records requested. I ask for a written response to this request within the time mandated by the Act. The documents should include any relevant documents created up to and including the date of your response to this request.

If you determine that some but not all of the information is exempt from disclosure, please redact the information in question for the time being and make the rest available as requested. If you withhold any information, I request you cite the legal authority in writing. I will pay any reasonable costs up to one-hundred (\$100) for the production of the requested materials.

Please contact me immediately if you have any questions. Thank you for your prompt attention to this matter.

Sincerely,

JW August  
Investigative Producer  
KNSD  
San Diego, California, 92102

1 619 992 2210

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Please Note: This email communication may be subject to the California Public Records Act and may be viewed by third parties upon request.

**CIVIC SAN DIEGO**  
**Compensation Schedule**  
**FY 2016**

<b>Position</b>	<b>Annualized Compensation</b>
Accountant	61,050
Accountant	53,125
Accountant	56,000
Accountant/Financial Analyst	59,063
Administrative Assistant	48,300
Administrative Services Mgr./Clerk of the Board	73,000
Asset & Contracts Manager	100,000
Assistant Asset and Contracts Manager	49,000
Assistant Planner	56,650
Assistant Vice President	128,000
Assistant Vice President	120,000
Assistant Vice President	129,000
Associate Planner	71,000
Associate Project Manager	71,000
Associate Project Manager	65,000
CFO	165,000
Confidential Assistant	70,000
Economic and Community Development Manager	110,000
Finance & Investment Development Manager	103,940
IT Manager	70,000
President	180,000
Principal Accountant	83,200
Principal Accountant	83,700
Principal Engineer	125,000
Project Manager, Public Works	90,500
Project Manager, Public Works	113,600
Receptionist	34,000
Senior Administrative Assistant	60,000
Senior Planner	82,000
Senior Planner	85,000
Senior Planner	85,000
Senior Project Manager	122,000
Senior Project Manager	109,700

**From:** [August, J.W \(NBCUniversal\)](#)  
**To:** [Walsh, Lynn \(NBCUniversal\)](#)  
**Subject:** FW: Murtaza Baxamusa interview, 10am at The Coopersmith Law Firm  
**Date:** Thursday, July 14, 2016 11:32:48 AM  
**Attachments:** [15-1222 filed Second Amended Petition.pdf](#)

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Would like to add this document to the CIVICSD story

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**From:** Steven T. Coopersmith [mailto:stc@STEVESCOOPERSMITHLAW.COM]  
**Sent:** Wednesday, June 22, 2016 5:13 PM  
**To:** August, J.W (NBCUniversal)  
**Cc:** Walsh, Lynn (NBCUniversal); Fry, Wendy (NBCUniversal); Murtaza Baxamusa; Catherine Hampton  
**Subject:** Murtaza Baxamusa interview, 10am at The Coopersmith Law Firm

J.W. –

Nice talking to you today. I have confirmed with my client that we are willing to meet with you for an interview tomorrow at my office. We are fine with 10am.

Obviously, because my client was not privy to numerous details within Civic San Diego, we won't be able to speak to the "why" you asked. Those questions are best put to Civic San Diego, but moreover to the City of San Diego and its elected City Council and the Mayor, given that the City is responsible for oversight of the delegation to Civic San Diego of its planning authority. We also cannot comment at this time about whether Civic San Diego violated the Brown Act, but we do plan to investigate that issue.

We can, however, speak to the claims we have made in our lawsuit. I'm attaching a copy of the most recent pleading of the lawsuit so we can be on the same page about what we have alleged.

Dr. Baxamusa served honorably on the Civic San Diego Board of Directors and consistently advocated – even despite significant resistance, both internally and from representatives of the City itself – for positive and productive civic planning. Dr. Baxamusa has always seen an opportunity to improve our neighborhoods and focus on how city planning in San Diego could affect the community and its residents.

We look forward to discussing our claims. As you will see, we are challenging the current lack of oversight and safeguards concerning the delegation of authority to Civic San Diego since the time that redevelopment ended in California in 2012.

We will see you at my office at 10am tomorrow morning.

Best,  
Steve

**Steven T. Coopersmith**  
The Coopersmith Law Firm  
555 West Beech Street, Suite 230  
San Diego, California 92101

Tel: [\(619\) 238-7360](tel:6192387360)  
Fax: [\(619\) 785-3357](tel:6197853357)  
Email: [stc@stevecoopersmithlaw.com](mailto:stc@stevecoopersmithlaw.com)  
Website: [www.stevecoopersmithlaw.com](http://www.stevecoopersmithlaw.com)

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**From:** August, J.W (NBCUniversal) [<mailto:JW.August@nbcuni.com>]  
**Sent:** Wednesday, June 22, 2016 4:43 PM  
**To:** Steven T. Coopersmith <[stc@STEVECOOPERSMITHLAW.COM](mailto:stc@STEVECOOPERSMITHLAW.COM)>  
**Cc:** Walsh, Lynn (NBCUniversal) <[Lynn.walsh@nbcuni.com](mailto:Lynn.walsh@nbcuni.com)>; Fry, Wendy (NBCUniversal) <[Wendy.Fry@nbcuni.com](mailto:Wendy.Fry@nbcuni.com)>  
**Subject:** Murtaza Baxamusa approx 10Am at Mr Coppersmith's office

***“Civic San Diego is a city-owned non-profit that is the entrepreneurial development partner for targeted urban neighborhoods”***

**There are some serious issues with Civic San Diego ..... no oversight, no right to appeal. As you and your client have alleged and detailed in a lawsuit you filed. Civic San Diego policies effect what our neighborhoods will look like and how a big pile of taxpayers money is spent,**

KNSD has been pursuing several angles to a story on the Civic San Diego Baxamusa and I were talking at length several months ago about the meetings behind closed doors regarding upper management behaviors, allegations of mismanagement and conflict of interest made by a former employee who has since resigned.

We were interested in learning WHY your client was frozen out of details about those meetings. I filed a series of CPRA requests to try to determine what was going on. They generally hid behind “it’s a personnel issue” defense.

A review of the confidentiality statement that Murtaza was asked to sign was reviewed for us by open government attorney Terry Francke of Sacramento. He thought it unusual. Our reporter Wendy Fry connected with a number of different organizations that confirmed Mr Francke’s findings---not the standard practice for a board member on a non profit organization like Civic San Diego. Quoting from Wendys research:, **“ It’s highly, highly unusual” Everybody when elected is briefed on the confidentiality of closed session. “And a confidentiality agreement has no force beyond the existing enforcement (Brown Act) of**

**breaking closed session, which is only for other board members to censure a colleague.”**

Our concern is the culture of this agency, how they treated your client, apparently singling him out for special handling because he was asking questions

Thank you



**J W August**

Investigative Producer

o 619.578.0214 | c 619.992.2210

9680 Granite Ridge, San Diego, CA 92123

1 **THE COOPERSMITH LAW FIRM**  
STEVEN T. COOPERSMITH (SBN 184646)  
2 ALANNA J. PEARL (SBN 256853)  
CATHERINE J. HAMPTON (SBN 285864)  
3 555 West Beech Street, Suite 230  
San Diego, California 92101  
4 Telephone: (619) 238-7360  
Facsimile: (619) 785-3357

5 Attorneys for Petitioners Murtaza Baxamusa and  
6 San Diego County Building & Construction  
Trades Council, AFL-CIO

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**12/22/2015** at 01:11:00 PM  
Clerk of the Superior Court  
By Christina Villegas, Deputy Clerk

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO – CENTRAL DIVISION**

11 MURTAZA BAXAMUSA, an individual,  
SAN DIEGO COUNTY BUILDING &  
12 CONSTRUCTION TRADES COUNCIL,  
AFL-CIO,

13 Petitioners,

14 v.

15 CIVIC SAN DIEGO, a California  
16 Corporation, CITY OF SAN DIEGO, a  
municipal corporation, and DOES 1  
17 through 50, Inclusive,

18 Respondents.

CASE NO.: 37-2015-12092-CU-PT-CTL

**SECOND AMENDED PETITION FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

**Code of Civil Procedure §§1060; 526a**

**Judge: Hon. Randa Trapp  
Dept: C-70**

**Petition Filed: April 10, 2015  
First Amended Petition Filed: May 8, 2015**

25 Petitioners MURTAZA BAXAMUSA and SAN DIEGO COUNTY BUILDING &  
26 CONSTRUCTION TRADES COUNCIL, AFL-CIO, allege for their Petition against Respondents  
27 CIVIC SAN DIEGO, a California Corporation, CITY OF SAN DIEGO, a municipal corporation  
28 (collectively “Respondents”), and DOES 1 through 50 as follows:

1 INTRODUCTION AND BACKGROUND

2 1. In 2011, the California legislature ended a roughly 60-year tax-funded  
3 redevelopment program in California designed to combat public blight in urban cities. Until the  
4 time of the program’s demise, redevelopment in the City of San Diego (the “City”) was  
5 administered by the City’s former Redevelopment Agency and through an agency relationship  
6 with the City’s non-profit entity, the former Centre City Development Corporation (“CCDC”).

7 2. As a result of the end of redevelopment in California, it was unclear what role  
8 CCDC could or should continue to serve for the City. Nonetheless, in June 2012, Mayor Jerry  
9 Sanders made the determination to repurpose CCDC to Civic San Diego (“CivicSD”), and to  
10 continue the City’s delegation of permitting and planning authority to CivicSD that was  
11 previously made to CCDC for purposes of assisting with tax-funded redevelopment.

12 3. The City now engages CivicSD’s services through two June 2012 consulting  
13 agreements between the City and CivicSD. Unfortunately however, and in light of the changed  
14 landscape caused by the end of redevelopment, the City has utterly failed to provide adequate  
15 oversight over and safeguards regarding the services CivicSD now performs for the City since  
16 that time.

17 4. CivicSD is a private, non-profit corporation whose only member is the City itself.  
18 CivicSD’s website describes the corporation as “a one-stop shop with a Neighborhood  
19 Development Toolbox that lets us move quickly with public-private development projects and  
20 programs.” Indeed, CivicSD’s “streamlined” process for project approvals is one of its  
21 supporters’ biggest selling points. Unfortunately, this “streamlined” efficiency comes at a high  
22 cost for downtown San Diego. The price is public discourse and due process.

23 5. CivicSD is *solely* responsible for Centre City Development Permits within  
24 downtown San Diego. The City Council and the Mayor appoint every member of CivicSD’s  
25 Board of Directors (“Board”) to a three year term. **Not one member of CivicSD’s Board was**  
26 **elected.** In essence, CivicSD’s Board operates without any accountability to the City Council,  
27 and thus without accountability to San Diego taxpayers.



1           6.       Yet, CivicSD’s operations demand close scrutiny for a multitude of reasons. In  
2 addition to serving as the City’s agent for downtown planning and permitting, Board members are  
3 also permitted to serve on the board of “for profit” subsidiaries known as Community  
4 Development Entities (“CDE’s”), which administer New Market Tax Credits granted by the  
5 Federal Government. Significant conflicts of interest exist or could arise as a result of this dual  
6 role served by CivicSD Board Members. Further, CivicSD is compensated based on a percentage  
7 of the projects and services rendered, which necessarily creates an inherent bias towards projects  
8 and services that will result in greater revenue.

9           7.       To the extent the City Council believes it can continue lawfully delegating powers  
10 of permitting and planning to CivicSD in light of the demise of redevelopment, the delegation is  
11 limited by the San Diego City Charter (“Charter”) Sections 11.1, 28, and/or 117(c).<sup>1</sup> **Further,**  
12 **even if the continued delegation to CivicSD is lawful, the City cannot completely absolve**  
13 **itself of all responsibility and oversight for CivicSD’s actions.** In California, a legislative body  
14 can lawfully delegate administrative planning and permitting functions to another entity only if it  
15 **“retains ultimate control over administration so that it may safeguard the public interest.”**  
16 **See County of Los Angeles v. Nesvig, 231 Cal. App.2d 603, 616 (1965). City Council has, in**  
17 **practice, utterly failed to exert its ultimate control with respect to the activities of CivicSD**  
18 **since the end of redevelopment in California.**

19           8.       In addition, the City Council does not provide a meaningful avenue for an  
20 aggrieved person to appeal Process Two and Three permitting and planning decisions to a  
21 legislative body directly accountable to elected officials. In every other part of San Diego  
22 County, taxpayer citizens can appeal Process Two and Three permits directly with the City’s  
23 Planning Commission. Instead, taxpayer citizens in downtown San Diego have only one avenue

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24  
25 <sup>1</sup> The City is apparently of two minds on this issue. On the one hand, it calls CivicSD a  
26 “consultant,” which would purportedly permit the City to engage CivicSD pursuant to Section 28  
27 of the Charter, and would not require the City to engage in a competitive bidding process. But on  
28 the other hand, the City’s Resolution No. 307849, which expanded CivicSD’s duties in November  
2012, specifically references City Charter section 117(c) with respect to the engagement of  
CivicSD, which does in fact require the City to engage in a competitive bidding process. This is  
but one of the many contradictions inherent in the manner in which the City Council is allowing  
CivicSD to operate.

1 for appeal of Process Two and Three decisions – the CivicSD Board itself.

2 9. As a result, taxpayers, business owners, developers, and union representatives  
3 alike are deprived of meaningful recourse, or an opportunity to engage in significant discourse,  
4 regarding most decisions made by CivicSD on a project-specific level with any City employee,  
5 City department or City elected official.

6 10. In fact, the public has been silenced through the operation of CivicSD. Taxpayers  
7 unhappy with the actions of CivicSD cannot be heard by a legislative body on appeal, and they  
8 cannot be heard at the ballot box. Thus, neither CivicSD nor the City Council has to account for  
9 the planning and permitting decisions made by CivicSD. CivicSD does not have to answer to the  
10 City Council, and the City Council does not have to answer to its constituents.

11 11. Given this municipal mess, it is no surprise that San Diego is the only municipality  
12 in the State of California that delegates its planning functions to a private, non-government  
13 corporation. The continuation and expansion of CivicSD’s agency role after the end of  
14 redevelopment is unprecedented in this State.

15 12. Indeed, on March 6, 2015, California Assemblywoman Lorena Gonzalez proposed  
16 Assembly Bill 504 (“AB 504”), designed to “create more oversight at local governments that rely  
17 on the planning, zoning or permitting expertise of non-profit organizations or private  
18 individuals.” According to Assemblywoman Gonzalez in a press release accompanying the  
19 introduction of AB 504, “the goal of the bill was to clarify the ability of non-profit groups like  
20 Civic San Diego to perform permitting work for local governments, **as it’s uncertain what legal**  
21 **authority in California law the organization has to approve building projects on behalf of**  
22 **the City of San Diego after redevelopment’s demise.”**

23 13. California’s Legislature agreed with AB 504’s mission and approved the bill on  
24 September 4, 2015. However, Governor Brown vetoed the enrolled bill on October 8, 2015 with  
25 the following veto message:

26 This legislation imposes statewide rules on local land use planning  
27 that are intended to address a dispute in one jurisdiction. **These**  
28 **are issues that should be determined at the local level.**

1 (Emphasis added.)

2 14. **Petitioners have heard the Governor’s message loud and clear: this is an issue**  
3 **that must be resolved by this Court.** Thus, by this lawsuit, Petitioners seek a declaration that,  
4 since the end of tax-funded redevelopment in California, the City has failed to properly  
5 administer its delegation of permitting and planning authority to CivicSD because it has: (1)  
6 effectively surrendered or abnegated control over certain discretionary land use planning and  
7 permitting decisions to CivicSD; (2) failed to clearly define CivicSD’s scope and authority; and  
8 (3) failed to implement and exercise adequate safeguards against CivicSD’s misuse of power,  
9 including proper oversight. **Petitioners specifically seek the City and CivicSD to adopt**  
10 **provisions similar to those set forth in AB 504, namely:**

- 11 • A right of appeal to the City Council for projects that include (i) no less than 50  
12 residential units, (ii) no less than 50 hotel rooms, (iii) no less than 25,000 square  
13 feet of commercial space, and;
- 14 • An annual report from CivicSD to the City Council on the planning functions  
15 undertaken during the previous calendar year that includes, but is not limited to, a  
16 detailed description of each planning function and an explanation of how it is  
17 consistent with the City’s charter, municipal code, ordinances, and any applicable  
18 parts of the City’s General Plan. Each report must be reviewed and approved by  
19 the City Council at a noticed public hearing.

20 15. Further, Petitioners seek injunctive relief as taxpayers pursuant to California  
21 Code of Civil Procedure (“CCP”) Section 526(a) to prevent the City from continuing to make  
22 illegal expenditures in the form of payments to CivicSD for services rendered with respect to land  
23 use planning and permitting decisions without this type of sufficient City oversight.

24 16. Petitioners bring this Second Amended Petition pursuant to CCP Section 472 now  
25 that the future of AB 504 has been settled by the Governor and in response to Respondents’  
26 currently pending demurrers alleging expiration of the statute of limitations for challenging the  
27 City’s original delegation of authority to CCDC through several 1992 Planned District  
28 Ordinances, and further alleging Petitioners’ lack of standing to bring this action.

1 17. As made clear by this amendment, Petitioners do *not* mount a facial challenge to  
2 the underlying act of delegation of authority made to CCDC in 1992 – the statute of limitations  
3 set forth in Government Code Section 65009 is therefore inapplicable. Rather, the purpose of  
4 Petitioners’ request for declaratory and injunctive relief is to challenge the City’s *current* lack of  
5 oversight and safeguards with respect to its delegation of authority to CivicSD since the time that  
6 redevelopment ended in California. Accordingly, there are no statute of limitations issues with  
7 the relief sought by Petitioners in this action.

8 18. In addition, Petitioners amend their Petition to assert standing to bring this action  
9 as citizens and taxpayers pursuant to the provisions of CCP §526(a).

10 **VENUE, PARTIES, AND JURISDICTION**

11 19. Venue is proper because the facts and circumstances of this case, and the  
12 declarations sought from this Court, arise from matters directly at issue in the City of San Diego,  
13 within San Diego County.

14 20. Petitioner Murtaza Baxamusa, PhD (“Dr. Baxamusa”) is a Director on the CivicSD  
15 Board of Directors and has served in that role since the Mayor appointed him in May 2013. In  
16 addition to his role with CivicSD, Dr. Baxamusa serves as the Director of Planning and  
17 Development for the San Diego County Building and Construction Trades Council Family  
18 Housing Corporation and teaches a community planning course at the University of Southern  
19 California (“USC”). Dr. Baxamusa received his Bachelor’s degree in Architecture from the  
20 Indian Institute of Technology and both his Master’s and PhD degrees in Planning at USC. Dr.  
21 Baxamusa is currently a certified planner by the American Planning association and holds over 12  
22 years of experience in economic development and sustainable urban planning. Dr. Baxamusa  
23 lives and works in San Diego, California. Dr. Baxamusa is directly affected by City Council’s  
24 failure to properly oversee CivicSD as a Board member and Director of CivicSD and thus has  
25 standing to seek a judicial declaration of his rights and duties concerning these Respondents.

26 21. Petitioner San Diego County Building and Construction Trades Council, AFL-CIO  
27 (the “Trades Council”) is an affiliation of twenty-two (22) construction and trade unions (the  
28 “Building Trades”) representing over 30,000 workers throughout San Diego County. The Trades

1 Council performs a variety of responsibilities including, but not limited to: (1) serving as a  
2 clearinghouse of information for its affiliated unions on legislative issues at all levels of  
3 government; (2) serving as the body that approves strike sanctions for affiliates; (3) acting as the  
4 lead in negotiations for Project Stabilization Agreements and Project Maintenance Agreements;  
5 and (4) serving as the entity which speaks for the Building Trades on issues of concern. Business  
6 Manager Tom Lemmon acts as the Trades Council’s spokesperson and handles its day to day  
7 operations. Trades Council is directly affected by City Council’s failure to properly oversee  
8 CivicSD – and in particular, its failure to provide a right of appeal for decisions made by Civic  
9 SD – and thus has standing to seek a judicial declaration of its rights against these Respondents.

10 22. Defendant Civic San Diego is a private, non-profit subsidiary corporation of the  
11 City. Civic San Diego describes itself as a “one-stop shop” that facilitates quick approval,  
12 permitting, and funding of “public-private development projects and programs.” Civic San  
13 Diego’s specific purposes are: (1) to engage in economic development, land use permitting and  
14 project management services; (2) to enter into agreements, contracts or memoranda of  
15 understanding with any public or corporate entity, including the City, in furtherance of the  
16 Corporation’s purposes; (3) to engage in any other activities in furtherance of the purposes for  
17 which the Corporation was formed; and (4) to receive, invest, and utilize for the purposes for  
18 which the Corporation is formed, gross receipts from activities related to the Corporation’s  
19 exempt functions, and funds and property acquired through solicitation of contributions,  
20 donations, grants, gifts, bequests, and the like.

21 23. Defendant City of San Diego is, and at all times herein mentioned was, a  
22 California municipal corporation chartered pursuant to the Constitution and laws of the State of  
23 California and located in the County of San Diego, California.

24 ///

25 ///

26 ///

27 ///

28 ///

SUMMARY OF RELEVANT LAW

24. The City Charter section 11.1 provides:

The same prohibition against delegation of the legislative power which is imposed on the State Legislature by Article XI, Section 11a of the Constitution of the State of California shall apply to the City Council of San Diego, so that its members shall not delegate legislative power or responsibility which they were elected to exercise in the adoption of any ordinance or resolution which raises or spends public monies...

25. Thus, the City Charter *expressly provides* that the City Council is prohibited from delegating its duties to third parties by California’s strong doctrine against the delegation of legislative activity. On the other hand, legislative bodies such as City Council may delegate certain *administrative* duties – but those grants must attach procedures which safeguard against possible misuses of that power. See City of Burbank v. Burbank-Glendale-Pasadena Airport Authority, 72 Cal. App. 4th 366, 376 (1999).

26. In addition, delegations of administrative or regulatory powers must include *sufficiently definite directions* for the administrative body in the manner of exercising its delegated powers. See id. (citing Katz v. Dept. of Motor Vehicles, 32 Cal. App. 3d 679, 684 (1973)). **The legislature cannot abdicate responsibility to resolve fundamental issues by delegating that function to others or by failing to provide adequate direction for the implementation of its declared policies.** See CEEED v. Cal. Coastal Zone Conservation Comm., 43 Cal. App. 3d 306, 325 (1974). Hence, when the legislature makes the fundamental policy decision to delegate imposition of its declared policies to some other body, the legislature must impose adequate safeguards. See id.

27. A government entity contracts away its police power when a contract amounts to a “surrender” or “abnegation” of a proper governmental function. See Santa Margarita Area Residents Together v. San Luis Obispo County, 84 Cal. App. 4th 221, 233 (2000). **The general rule is that while a public body may not delegate its power of control over public affairs to a private group, it may delegate the performance of administrative functions to such groups if it retains ultimate control over administration so that it may safeguard the public interest.**

1 See Nesvig, 231 Cal.App.2d at 616. In each case of delegation there are two issues, whether the  
2 function is a proper one for delegation, and whether the manner of delegation retains the  
3 necessary, ultimate control over administration in the hands of the public entity. See id. at 617.

4 28. Powers which require the exercise of judgment and discretion must remain with  
5 the public agency and cannot be delegated. Thus the issue in each case of delegation is whether  
6 ultimate control over matters involving the exercise of judgment and discretion has been retained  
7 by the public entity. See id.

8 29. By statute, California has given the taxpayer broad standing to enjoin illegal  
9 government action pursuant to CCP 526a, which provides in relevant part:

10 An action to obtain a judgment, restraining an preventing any  
11 illegal expenditure of, waste of, or injury to, the estate, funds, or  
12 other property of a... city... may be maintained against any officer  
13 thereof, or any agent, or other person, acting in its behalf, either by  
14 a citizen resident therein, or by a corporation, who is assed for and  
is liable to pay, or, within one year before the commencement of  
the action, has paid, a tax therein.

15 30. The primary purpose of the statute is to enable a large body of the citizenry to  
16 challenge governmental action which would otherwise go unchallenged in courts because of the  
17 standing requirement. Blair v. Pitchess, 5 Cal. 3d 258, 267-268 (1971); Waste Management of  
18 Alameda County, Inc. v. County of Alameda, 79 Cal. App. 4<sup>th</sup> 1223, 1240 (2000). To this end,  
19 the statute has been construed liberally. Id. No showing of special damage to a particular  
20 taxpayer is required as a requisite for bringing a taxpayer suit – rather, taxpayer suits provide a  
21 general citizen remedy for controlling illegal governmental activity even without a showing of  
22 direct injury. Connerly v. State Personnel Bd., 92 Cal. App. 4<sup>th</sup> 16, 29 (2001).

### 23 FACTS

#### 24 **A. The Ambiguous Authority and Scope of CivicSD and the City's Failure to** 25 **Adequately Oversee CivicSD's Operations since the End of Redevelopment in** **California**

26 31. Currently, the City of San Diego is the only city in the entire state of California  
27 which outsources its planning and redevelopment functions to a private, non-governmental entity.

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1           32.     After the demise of tax-funded redevelopment in California, it was unclear what  
2 role CCDC could or should continue to serve for the City. Nonetheless, Mayor Jerry Sanders  
3 made the determination to repurpose CCDC to CivicSD, and to continue to engage CivicSD’s  
4 services through the use of two June 2012 consulting agreements between the City and CivicSD.  
5 CivicSD holds only one member – the City – which possesses voting rights used to appoint  
6 members of the Board, to dispose of the corporation’s assets, to merge the corporation, dissolve  
7 the corporation, and amend the Articles of Incorporation or Bylaws.

8           33.     Though the City is a member of CivicSD, CivicSD is not a city department or  
9 other governmental entity. Rather, CivicSD is a “consultant” to the City pursuant to two 2012  
10 Consulting Agreements. Under its Articles of Incorporation, CivicSD may perform certain  
11 otherwise governmental functions including, but not limited to economic development, land use  
12 permitting, and project management services. Despite its status as a private non-profit subsidiary  
13 corporation of the City, CivicSD receives substantial support from government and public funds.  
14 An excellent example of the paradox inherent in CivicSD’s structure is in its own application for  
15 the federal New Market Tax Credit Program. Is it a private, non-profit corporation? Is it  
16 Government-controlled? Even CivicSD does not fully understand if it is a private corporation  
17 with proprietary interests separate from the City:

18           a. *Applicant Name:*

19                     Civic San Diego Economic Growth and Neighborhood Investment Fund

20           b. *Applicant Employer Identification Number:*

21                     46-0660465

22           c. **Corporate Status of the Applicant:**

23                     **Non-profit**

24           d. **Structure of the Applicant:**

25                     **Government-Controlled entity**

26           34.     Municipal Code § 156.0304 designates the City as the responsible party for the  
27 “administration of planning and zoning for the City of San Diego within the Centre City Planned  
28 District.” Nonetheless, Charter Section 28 provides that the Mayor “shall have the power to



1 employ experts, or consultants to perform work or give advice connected with the Departments of  
2 the City when such work or advice is necessary in connection therewith.”

3 35. Further, Charter Section 117(c) states that “the City may employ an independent  
4 contractor to provide City services as an alternative to classified employees when the Mayor  
5 determines, subject to council approval, that the services can be provided more economically and  
6 efficiently by an independent contractor...while maintaining service quality and protecting the  
7 public interest.” Importantly, Section 117(c) requires the City to engage in a competitive bidding  
8 process to engage such independent contractors, something it did not do with respect to its  
9 engagement of CivicSD.<sup>2</sup> Regardless of which Charter Section the City delegates its powers  
10 under, the delegation *cannot* equate to a total absolution of legislative responsibility.

11 36. An April 2014 memorandum issued from the Office of the City Attorney  
12 (“Memorandum”), which surfaced in a March 25, 2015 article published in the *San Diego City*  
13 *Beat*, addresses some of the issues related to the City’s delegation to CivicSD. The Memorandum  
14 specifically notes that “[i]f the Council decides to delegate duties to CivicSD, it is critical that the  
15 Council provide specific parameters limiting CivicSD’s exercise of authority; doing so will  
16 reduce the risk of successful challenge to the act of delegation.” The Memorandum further  
17 provides:

18 If CivicSD provides any services on behalf of the City, it is this  
19 Office’s opinion that the City must enter into a contract with  
20 CivicSD that provides express conditions related to the work that  
21 CivicSD will perform. The conditions should include oversight;  
22 indemnification, hold harmless, and other provisions to protect the  
23 City from liability caused by CivicSD’s conduct; termination for  
24 non-performance and convenience; and other provisions.

25 37. Thus, and as recognized by the City Attorney, City Council is required to  
26 sufficiently limit CivicSD’s authority and provide adequate oversight over CivicSD to ensure its  
27 activities and decisions conform to the City’s General Plan, the Downtown Community Plan, the  
28 Planned District Ordinances, and the City’s Planned Development Ordinance (the “PDO”).

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<sup>2</sup> It is unclear whether the City Council’s delegation of powers to CivicSD is made pursuant to Charter Section 28 or Charter Section 117(c).

1           38.     CivicSD divides the tasks of reviewing and approving permit applications between  
2 its Board and its President. The Board reviews and approves certain Conditional Use Permits,  
3 Variances, and all Planned Development Permits which are required for any new structure over  
4 1,000 feet in size.

5           39.     If a development is less than 100,000 square feet and possesses fewer than 50  
6 dwelling units, the project must receive a development permit directly from the President of  
7 CivicSD through an “administrative review” process. This “administrative review” is not subject  
8 to a public hearing, nor is the President’s decision appealable to City Council.

9           40.     If a development seeks a Centre City Development Permit for a project exceeding  
10 100,000 square feet, possesses more than 50 dwelling units or is more than 85 feet high, the  
11 Board must grant “Design Review” approval. In theory, Design Review is limited only to the  
12 aesthetics of a project, i.e. exterior paint color and visible architecture. If the Board grants Design  
13 Review approval, the approval will generally then go to the CivicSD President, who determines if  
14 a project is consistent with all plans and then almost immediately issues a Development Permit.

15           41.     Unfortunately, although the PDO requires CivicSD to adhere to certain general  
16 parameters set by the City, in practice CivicSD is often ambiguous and inconsistent with its  
17 permitting process decisions. For example, according to the PDO the CivicSD Board must  
18 approve larger developments that require a Development Permit. However, in practice, a final  
19 approval of a Development Permit is a made by CivicSD staff and is rendered privately, behind  
20 closed doors.

21           42.     Further, the PDO directs the decision-maker – in this case, the CivicSD Board – to  
22 ensure that larger projects requiring a Development Permit are consistent with City plans.  
23 However, CivicSD staff has instructed the Board not to make those types of findings, leaving the  
24 findings the sole responsibility of the President. Thus, a discrepancy exists between what the  
25 PDO seems to require of the Board, and what in practice staff at CivicSD allow and ask of the  
26 Board. This type of discrepancy between what CivicSD is required to do on paper, and what it  
27 actually does in practice, is but one example of how the City has failed to properly monitor the  
28 activities of CivicSD. As the elected body, the City Council owes a duty to the public to properly

1 oversee the activities of CivicSD.

2 43. Currently, the City is the exclusive client and also the sole member of CivicSD.  
3 However, one of the 2012 consulting agreements between the City and CivicSD delegates  
4 economic development authority in low-income areas to CivicSD, allowing for CivicSD to enter  
5 into other agreements with *different* public or private entities. Yet there is no process or protocol  
6 in place for whether this would change CivicSD's relationship with the City, or what kind of  
7 oversight or supervision would occur, if any, over these potential new agreements.

8 44. The non-partisan State of California Office of Legislative Counsel (the  
9 "Legislative Counsel") has weighed in on the proper role and authority of CivicSD as well. In a  
10 memorandum addressed to Assemblywoman Gonzalez dated April 17, 2015, the Legislative  
11 Counsel wrote to answer her questions: (1) as to whether a city may contract away its land use  
12 authority to a non-profit benefit corporation; and (2) whether the Legislature may authorize a city  
13 to contract away its land use authority to a non-profit public benefit corporation. The Legislative  
14 Counsel's memorandum is attached hereto as Exhibit "A," and specifically incorporated herein by  
15 reference.

16 45. The Legislative Counsel answered these questions with a resounding "no":

17 **We have determined that a city may not, and the Legislature**  
18 **may not authorize a city to, contract away to a nonprofit entity**  
19 **its police power, which includes land use authority.**

20 46. The question of whether a delegation is proper, according to the Legislative  
21 Counsel memorandum, is if "the city retains ultimate control of matters involving the exercise of  
22 judgment and discretion. . . ." This is a key issue for the Court's determination in this case.  
23 Although the City Council appoints the Board, in reality and practice, CivicSD operates  
24 independently, uses its own judgment, and makes its own determinations on land use issues, with  
25 no direct right of appeal of its determinations to the City Council, and, in reality and practice,  
26 with no meaningful oversight or direction. The City has thus, in reality and practice, abandoned  
27 its police power to CivicSD.

28 47. **For example, CivicSD's Consulting Agreement requires it to perform its**  
**functions "as directed by the City." Yet, the City in reality provides no direction at all. In**

1 **fact, CivicSD exercises total judgment and discretion when it determines if a particular**  
2 **project comports with the downtown General Plan and issues a resulting permit.** CivicSD  
3 necessarily exercises discretion because a General Plan provides only general outlines for land  
4 use in a particular locality. See *Lesher Comm., Inc. v. City of Walnut Creek*, 52 Cal. 3d 531, 540  
5 (1990). The City bears the responsibility to write the details of the General Plan as well as to  
6 ensure CivicSD adheres to them. In practice, it has failed to do so, and has allowed CivicSD to be  
7 the master of its destiny.

8 48. **Further, though the Consulting Agreements provide the City the ability to**  
9 **audit CivicSD's books and records at any time, in fact, on information and belief, the City**  
10 **fails to exercise this important oversight activity.** In addition, the City's claim that it retains  
11 ultimate control over CivicSD's activities merely because it has the ability to terminate its  
12 Consulting Agreement with CivicSD at any time is illusory. How can the City determine if  
13 termination is proper if it provides no oversight of what CivicSD is doing on a day to day basis?  
14 The termination provision in the Consulting Agreement means nothing if, in reality the City fails  
15 to exercise any control over CivicSD in the first place. In addition, the mere *ability* to terminate  
16 the relationship is not the type of oversight and sufficient safeguards contemplated by California  
17 courts when opining on the propriety legislative delegation.

18 49. The City Attorney's own April 2015 recent memo, released on the heels of the  
19 Legislative Counsel opinion, advises that the City "revisit the existing agreements to clarify  
20 CivicSD's activities, build in transparency and financial oversight, provide for delegation of  
21 permitting authority by separate agency agreement, and include appropriate termination  
22 provisions." Accordingly, it appears everyone is in agreement that – with the exception of the  
23 City Council and CivicSD – ultimate control and the exercise of judgment and discretion are  
24 currently in the hands of CivicSD.

25 50. Legislators built City oversight into AB 504 by requiring a detailed annual report  
26 from the nonprofit public benefit corporation to the legislative body. This report would include  
27 details on the planning functions undertaken by CivicSD during the previous calendar year which  
28 would include, but not be limited to, a detailed description of each planning function and an

1 explanation of how it is consistent with the city’s charter, municipal code, ordinances, and any  
2 applicable parts of a general plan. Each report must be reviewed and approved by the legislative  
3 body of the city at a noticed public hearing.

4 51. Accordingly, this lawsuit is just one of many voices speaking on the need for  
5 oversight and accountability for CivicSD in the wake of redevelopment’s demise. If the City  
6 Council chooses to continue delegating its permitting and planning duties in the manner it has  
7 done since June 2012, then it likewise has an obligation to San Diego taxpayers to properly define  
8 and oversee the activities of CivicSD in order to hold the nonprofit accountable to the members of  
9 the community it purports to benefit. There is no reason that permitting and planning in  
10 downtown San Diego should be free of oversight from City Council and accountability to  
11 taxpayers just because it is “serviced” by a nonprofit corporation. In fact, its status as a corporate  
12 entity, rather than governmental entity, is a primary reason why City Council must actively  
13 monitor CivicSD.

14 **B. CivicSD Board Member Conflicts of Interest**

15 52. CivicSD Board members lack clarity as to what interests they represent in carrying  
16 out their planning and permitting duties. Do the Board members represent the City’s interests  
17 (CivicSD’s sole member), or do they represent CivicSD’s interests? It is also unclear to whom,  
18 exactly, the Board members owe fiduciary duties. This ambiguity is especially concerning  
19 because, in addition to its planning and permitting activities on behalf of the City, CivicSD’s  
20 subsidiary CDEs administer public-private developments through the administration of New  
21 Market Tax Credits, and takes a percentage of funds for completed projects as compensation for  
22 these services. The issue of fiduciary duties is critical, given the conflicts of interest which could  
23 exist or could easily arise as a result of Board members’ dual roles and conflicting loyalties to  
24 private and public interests.

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1           53. Pursuant to the new roles served by CivicSD and its Board since the end of  
2 redevelopment, various Board members also serve on the Boards of CivicSD's subsidiary CDE's.  
3 To understand why this could create a conflict of interest, it is important to understand the nature  
4 of CDEs:

5           A CDE is a domestic corporation or partnership that is an  
6 intermediary vehicle for the provision of loans, investments, or  
7 financial counseling in Low-Income Communities (LICs). Benefits  
8 of being certified as a CDE include being able to apply to the CDFI  
9 Fund to receive a New Markets Tax Credit (NMTC) allocation to  
offer its investors in exchange for equity investments in the CDE  
and/or its subsidiaries; or to receive loans or investments from other  
CDEs that have received NMTC allocations.

10 See [www.cdfifund.gov/what\\_we\\_do/programs\\_id.asp?programID=10](http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=10)

11           54. Given these CDEs' hold both private and public funds, CivicSD Board members  
12 could have private organizational interests to protect that conflict with the City's interests. Yet  
13 the Board receives no direction from City Council as to what entity it owes fiduciary duties to in  
14 those instances. In the event of a conflict, does the Board owe a fiduciary duty to protect  
15 taxpayer interests or CivicSD subsidiaries' interests? Due to the City Council's failure to  
16 properly and clearly delegate its power to CivicSD with sufficient oversight, this question  
17 remains unanswered.

18           55. Another inherent conflict plagues CivicSD regarding its role in the approval of  
19 land-use permits on the one hand, and its proprietary interests in funding projects with New  
20 Market Tax Credits or similar sources on the other. These functions currently overlap  
21 jurisdictionally downtown, but this conflict could spread to other areas since CivicSD is actively  
22 seeking permitting authority in areas outside downtown. CivicSD could fund property  
23 acquisition, approve its land-use permits, fund its development, and accrue revenue from the  
24 same project, without any approval or oversight from the City. This is in clear contrast to a well-  
25 established procedure for public hearings, public disclosures, and agency approvals for  
26 disposition and development agreements followed by redevelopment agencies under the former  
27 state redevelopment law.

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1 **C. Appeal of CivicSD Decisions and Mandatory Reporting**

2 56. **The City Council cannot provide adequate safeguards over the activities of**  
3 **CivicSD unless it provides (1) an opportunity for the public to directly appeal Process Two**  
4 **and Three CivicSD permitting decisions through a formal appeals process to a legislative**  
5 **body, and (2) requires CivicSD to report annually on the permitting functions it takes on**  
6 **behalf of the City.**

7 57. As it stands, Process Two and Three permitting decisions in downtown San Diego  
8 are treated differently than everywhere else within San Diego County. In areas outside CivicSD's  
9 control, Process Two and Three permits are appealable to the Planning Commission – a division  
10 of the City. However, citizens of downtown San Diego are denied access to a legislative body for  
11 purposes of appeal.

12 58. Currently, if a member of the public disagrees with a Process Two or Three  
13 decision of CivicSD, his or her only recourse is to testify directly to the Board of CivicSD, which  
14 steps into the shoes of the Planning Commission in downtown San Diego. Thus, the individual  
15 has no ability to appeal decisions of CivicSD to *a legislative body*. This process does not provide  
16 *meaningful* recourse because the Board does not rely on the public for its job security, thus the  
17 Board can take or leave the public's concerns without fear of consequences at the ballot box.  
18 Importantly, this process also provides insufficient safeguards regarding City Council's  
19 delegation to CivicSD as required by California law.

20 59. For example, in 2013 the Trades Council urged CivicSD to deny the Design  
21 Review approval of a hotel on West Ash Street in downtown San Diego for a multitude of  
22 reasons, including the Board's failure to consider environmental impacts consistent with the  
23 City's General Plan, that California law required CivicSD to prepare a subsequent EIR for the  
24 proposed project, and that the project conflicted with the San Diego General Plan and the  
25 Downtown Community Plan goals and policies. Nonetheless, the Design Review and project  
26 were ultimately approved by CivicSD. The Trade Council had no avenue for further appeal of  
27 CivicSD's decision, despite the fact that the Trade Council raised serious compliance issues  
28 which went unaddressed.





1 Board member conflicts of interest, and failing to retain proper control over and oversight of  
2 CivicSD's activities, as required by California law. The City, on the other hand, maintains that its  
3 delegation to CivicSD is lawful despite the lack of sufficient oversight and lack of a meaningful  
4 appeals process for the members of the downtown San Diego community.

5 66. A judicial declaration resolving this dispute is therefore necessary and appropriate  
6 in order that Petitioners may ascertain their rights and duties pursuant to the City Charter and  
7 California law. Specifically, Petitioners request a declaration from this Court that, since the end  
8 of redevelopment in California and specifically since June 2012, the City has failed to properly  
9 delegate its permitting and planning authority to CivicSD because it has: (1) effectively  
10 surrendered or abnegated control over land use planning and permitting decisions to CivicSD; (2)  
11 failed to clearly limit CivicSD's scope and authority; and (3) failed to implement and exercise  
12 adequate safeguards against CivicSD's misuse of power, including proper oversight.

13 67. Petitioners are informed and believe, and thereon allege that unless and until  
14 restrained by this Court, CivicSD and the City will continue to operate in a manner contrary to  
15 California law. Petitioners, and the public at large, will be irreparably harmed in that CivicSD  
16 will continue to exercise legislative authority with inadequate safeguards and oversight in place.  
17 In addition, Petitioners, and the public at large, will be irreparably harmed if the City fails to  
18 provide a right of appeal to aggrieved persons to challenge Process Two and Three decisions of  
19 CivicSD.

20 68. Petitioners have no adequate remedy at law to prevent or redress this irreparable  
21 injury. If Petitioners are successful in this action, a significant benefit will be conferred on the  
22 general public, and Petitioners are therefore entitled to reasonable attorneys' fees pursuant to CCP  
23 1021.5.

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**SECOND CAUSE OF ACTION**  
**Request for Injunctive Relief pursuant to**  
**California Code of Civil Procedure §526(a)**  
**(Against all Respondents)**

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4           69.     Petitioners incorporate by reference Paragraphs 1 through 68 of this Complaint as  
5 though fully set forth herein.

6           70.     A taxpayer action under CCP §526(a) is available to restrain or prevent the illegal  
7 expenditure of public funds. CCP 526(a) confers standing to seek an injunction restraining illegal  
8 acts being perpetrated by government officials upon a taxpayer, corporation, or association of  
9 taxpayers that has paid any tax within a city, county, or other taxing California jurisdiction. Santa  
10 Barbara County Coalition Against Auto. Subsidies v. Santa Barbara County Ass'n of  
11 Governments, 167 Cal. App. 4<sup>th</sup> 1229,1236-1237 (2008); Gilbane Bldg. Co. v. Superior Court,  
12 223 Cal. App. 4<sup>th</sup> 1527, 1530 (2014).

13           71.     Dr. Baxamusa is a resident and taxpayer in the City of San Diego, and therefore  
14 has standing to seek an injunction to prevent illegal expenditure of public funds pursuant to CCP  
15 526(a). The Trades Council is an association consisting of residents and taxpayers in the City of  
16 San Diego, and therefore also has standing to seek an injunction to prevent illegal expenditure of  
17 public funds pursuant to CCP 526(a). The Trades Council has also independently paid sales and  
18 other taxes within the City of San Diego sufficient to assert standing pursuant to CCP 526(a).

19           72.     As stated herein, the City has failed to properly administer its delegation of  
20 permitting and planning authority to CivicSD in direct violation of the City Charter and the  
21 California Constitution. Thus, the City has made, and continues to make, illegal expenditures of  
22 public funds in the form of payments made to CivicSD for services rendered.

23           73.     Petitioners therefore seek an injunction from this Court restraining and preventing  
24 this illegal expenditure of public funds by the City unless and until City Council implements  
25 adequate safeguards regarding and oversight over the activities of CivicSD, as required by  
26 California law, and specifically, implements procedures substantially similar to those required by  
27 the recently passed but vetoed AB504, including:

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- A right of appeal to the City Council for projects that include (i) no less than 50 residential units, (ii) no less than 50 hotel rooms, (iii) no less than 25,000 square feet of commercial space, and;
- A required annual report from CivicSD to the City Council on the planning functions undertaken during the previous calendar year that includes, but is not limited to, a detailed description of each planning function and an explanation of how it is consistent with the city’s charter, municipal code, ordinances, and any applicable parts of a general plan. Each report must be reviewed and approved by the City Council at a noticed public hearing;

74. If Petitioners are successful in this action, a significant benefit will be conferred on the general public, and Petitioners are therefore entitled to reasonable attorneys’ fees pursuant to CCP 1021.5.

**PRAYER FOR RELIEF**

**WHEREFORE**, Petitioners pray for the following relief:

1. For a judicial declaration as stated in the First Cause of Action regarding the City’s unlawful delegation of legislative authority to CivicSD since the end of tax-funded redevelopment in California, and specifically, since June 2012;
2. For injunctive relief pursuant to the Second Cause of Action;
3. For Petitioners’ reasonable attorneys’ fees and costs pursuant to California Civil Procedure Code § 1021.5, and to the extent provided by law; and
4. For such other and further relief as the Court deems proper.

DATED: December 22, 2015

**THE COOPERSMITH LAW FIRM**

By:   
 STEVEN T. COOPERSMITH  
 Attorneys for Petitioners Murtaza  
 Baxamusa and San Diego County  
 Building & Construction Trades  
 Council, AFL-CIO

1 **PROOF OF SERVICE**

2 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
3 COUNTY OF SAN DIEGO – CENTRAL DIVISION

4 Murtaza Baxamusa, et al. v. Civic San Diego, et al.  
5 San Diego Superior Court Case No: 37-2015-12092-CU-PT-CTL

6 I, Clariece A. Tally, declare as follows:

7 I am employed by a member of the bar of the State of California at whose direction was  
8 made in the County of San Diego, State of California. I am over the age of 18 and not a party to  
9 the within action; my business address is 555 West Beech Street, Suite 230, San Diego,  
10 California 92101.

11 On December 22, 2015, I served true and correct copies of the foregoing document(s)  
12 described as:

13 **1. SECOND AMENDED PETITION FOR DECLARATORY AND INJUNCTIVE  
14 RELIEF**

15 on interested parties in this action by placing  the original  true copy(ies) thereof enclosed  
16 in sealed envelopes as follows:

17 Jan I. Goldsmith, City Attorney *Attorneys for Defendant City of San Diego*  
18 Daniel F. Bamberg, Assistant City Attorney  
19 Walter Chung, Deputy City Attorney  
20 Office of the City Attorney  
21 1200 Third Avenue, Suite 1100  
22 San Diego, CA 92101-4100

23 BEST BEST & KRIEGER LLP  
24 Shawn Hagerty, Esq. *Attorneys for Defendant Civic San Diego*  
25 Matthew L. Green, Esq.  
26 655 West Broadway, 15<sup>th</sup> floor  
27 San Diego, CA 92101

28  **BY FIRST CLASS MAIL** (C.C.P. § 1013(a)) I am readily familiar with the firm’s practice of  
collection and processing correspondence for mailing with the United States Postal Service.  
Under that practice, it would be deposited with United States postal service on that same day with  
postage thereon fully prepaid at San Diego, California in the ordinary course of business. The  
envelope was sealed and placed for collection and mailing on that date following ordinary  
business practices. I am aware that on motion of the party served, service is presumed invalid if  
postal cancellation date or posted meter date is more than one day after date of deposit for  
mailing in affidavit.

**BY ELECTRONIC TRANSMISSION** (C.C. P. § 1010.6(6)) Based on a court order or an agreement  
of the parties to accept service by email or electronic transmission, I caused the documents to be  
sent to the persons at the e-mail address(es) listed. I did not receive, within a reasonable time  
after the transmission, any electronic message or other indication that the transmission was  
unsuccessful.

**BY OVERNIGHT DELIVERY** (C.C. P. § 1013(c)) I am readily familiar with the firm’s practice of

1 collection and processing correspondence for mailing with Overnite Express and Federal  
2 Express. Under that practice, it would be deposited with Overnite Express and/or Federal  
3 Express on that same day thereon fully prepaid at San Diego California in the ordinary course of  
4 business. The envelope was sealed and placed for collection and mailing on that date following  
5 ordinary business practices.

6  **BY FACSIMILE** (C.C. P. § 1013(e)) Based on agreement of the parties to accept service by fax  
7 transmission, I faxed the documents on this date to the person(s) at the fax numbers listed. No  
8 error was reported by the fax machine that I used. A copy of the record of the fax transmission,  
9 which I printed out, is attached.

10  **BY PERSONAL SERVICE** (C.C. P. § 1011(a)) I served the documents by placing them in an  
11 envelope or package addressed to the person(s) at the addresses listed and providing them to a  
12 professional messenger service for service on this date.

13  (STATE) I declare under penalty of perjury under the laws of the State of California that the  
14 above is true and correct.

15  (FEDERAL) I declare that I am employed in the office of a member of the bar of this court  
16 at whose direction the service was made.

17 Executed on December 22, 2015, in San Diego, California.

18   
19 Clariece A. Tally

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