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To: The Honorable Mayor Ron Morrison and Members of the City Council and Community Development Commission of National City

Below are our reasons for asking that you vote against the following resolutions and ordinance.

**9. Resolution of the City Council of the City of National City adopting the Community Development Commission's written responses to written objections on the proposed amendment to the Redevelopment Plan for the National City Redevelopment Project. (Community Development Commission)**

This document did adequately demonstrate one fact. The Government of National City has failed in its duty to enforce codes, particularly those related to health and safety. Any real dilapidation should have been eliminated by adequate code enforcement. Since the property owners and other interested parties have only had one or two days to study the written responses, we can not completely comment on them. How many of you Council Members have carefully examined our questions and your staffs' responses? How long have these documents been available to you?

We second Ms. Berliner's comments on the level of the work. The taxpayers of National City deserve a much better job for their money. If you are going to separate us from our properties, you should hire better consultants. The documents are obviously deficient in not providing readable versions of the maps that show Adjacent Uses, Structural Obsolescence, Defective Design Without Parking, Deterioration & Dilapidation; and the presumably black and white image of the National City Environmental Sites by Lead Agency. According to the maps that I have, all buildings on the West side suffer from these deficiencies.

If the owners do not know the specific reasons that the City used to declare our properties to be blighted, we can not demonstrate to you the error of that finding. We demand that the CDC provide us with any reports prior to June 13, 2007 that claim to establish that blight has been found that is specific to one of our properties. We hope that the other property owners join us in that demand.

Page 18, item 4 states:

*"Property owners that believe eminent domain authority is somehow stagnating their property may seek to remove the potential use of eminent domain authority on their property."*

What is the process for doing this? Do you have a form that we need to fill out? Should this be done prior to the extension of "eminent domain"?

We believe that our inability to comment completely on your staffs' responses and the inadequate time these has been available for you to study the matter, and the lack of specific reasons that the City used to declare our properties to be blighted require that you postpone voting on Resolution 9.

Although the taking of a private property for a public use like a hospital, street, or school often is a legitimate undertaking, which was referred to in the 5th amendment as eminent domain, the use of the term eminent domain for government based transfer of private property from one private party to another is inappropriate. We prefer to call it what it is, eminent theft.

This document repeats the phrases such as,

*“The Exclusive Negotiation Agreement is a separate action from the proposed 2007 Amendment. The 2007 Amendment, if adopted, would only extend the authority for the CDC to use eminent domain. The 2007 Amendment does not approve any specific acquisition of property, and does not affect the CDC's existing or future use of an Exclusive Negotiation Agreement.”*

These actions are coupled because without the proposed 2007 Amendment there can not be an Exclusive Negotiation Agreement. A major purpose of Eminent Theft is to permit the CDC to enter into Exclusive Negotiation Agreements.

The inadequate noticing of this meeting, the inadequate time that these responses have been available for you and the people to study the matter and the poor quality of the images require that voting on Resolution 9 be postponed. We further suggest that you hire a new group to redo the invalid RSG study. The use of windshield surveys is totally inadequate.

**14. Resolution of the Community Development Commission of the City of National City approving the proposed 2007 Amendment to the Redevelopment Plan for the National City Redevelopment Project. (Community Development Commission)**

**16. An Ordinance of the City Council of the City of National City (“City Council”) approving the proposed amendment to the Redevelopment Plan for the National City Redevelopment Project (“2007 Amendment”) (Community Development Commission)**

Increasing the period of eminent domain will further the economic hardship of the present property owners, cause blight, and destroy whatever good will the property owners have towards the government of the City of National City. In fact, your past policies have been counter productive. Redevelopment should be based on mutual benefit to the property owners the government, and people. It is presently driven by economic and political considerations. On the West side, you are benefiting the casino owners and polluters and penalizing local business.

Page 25 states:

*“The CDC has retained eminent domain authority in the Project Area, which includes hundreds of other properties similarly subject to eminent domain, since its adoption in 1995.”*

This establishes that the holders of these other properties have suffered Klopping damages (FRANK J. KLOPPING, JR., et al., Plaintiffs and Appellants, v. CITY OF WHITTIER).

The Responses state,

*“2. CRL Section 33333.2(a)(4) provides that time limitations for eminent domain authority may be extended by amendment of the redevelopment plan after the agency finds, based on substantial evidence, both that significant blight remains within the project area, and that this blight cannot be eliminated without use of eminent domain.”*

Page 35:

*“Mr. Leif’s comment that he feels the site would be cleaned up more quickly if the CDC was not involved, is not founded in fact. In fact, as the Pacific Steel Incorporation (PSI) Project Status Update report dated 1/11/07 indicates, unless the CDC staff can persuade the DTSC to use their new EGA for RDAs process (which will speed up the process), it may take in excess of 12 years for the site to be cleaned up. Thus this existing blight in the Project Area would continue for a longer period of time unless redevelopment tools can be utilized.”*

Since Pacific Steel is the major source of blight on the Westside and is under court order to clean up and National City or its agent already under the Polanco Act has the power to force the removal of this blight, eminent domain is not needed in any other place than perhaps the land owned by Pacific Steel (see 33459.1 below). Therefore the rest of the Westside should be removed from the areas designated to be blighted. In fact, Ms. Beard of the CDC has stated:

“DISC has long treated its "enforcement cases" as distinct from "brownfield redevelopment" and is historically resistant to using flexible or creative approaches to their remediation. Persuasion (and potential political support) may be required.”

“33459.1. (a) (1) An agency may take any actions that the agency determines are necessary and that are consistent with other state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to the conditions specified in subdivision (b).

The large amount of surplus condominiums and vacant land created here in National City and other parts of California by redevelopment agencies is an excellent argument against the present approach to redevelopment.

Chula Vista with its bayfront is an example of what can go wrong even when a \$308 million public subsidy to the developers is provided. If a project requires directly subsidizing of a developer, it should not be done. Free enterprise is the means of regulation in a capital economy. Subsidies and state planning inevitably lead to inefficiencies that are reminiscent of the former Soviet Union and other socialist economies.

### **RSG REPORT NOT VALID**

The report by the Rosenow Spevacek Group (RSG) is a paid for service undertaking. They report blight for money. As a scientist, I have reviewed many articles. This report is the most unscientific writing that I have ever seen produced by any sort of professional. The data in the report by the RSG is essentially worthless because there was no data from control areas, such as the “Old” part of La Jolla or even Mission Beach. These are areas, which no rational being would call blighted.

Page 35,

*“Comparison to areas such as La Jolla and Mission Beach are more than 10 miles away and generally would have higher property values and lease rates.”*

Other comparison that should be made include dilapidation or deterioration, inadequate lots sizes, parking and setback requirements, subdivided lots that are under multiple ownership and whose physical development has been impaired by their irregular shapes or inadequate sizes.

The only comparison was on Lease Rates of National City, Chula Vista, and San Diego County, which is not corrected for the ethnic compositions of the area. The Lease Rates only prove that there is a higher composition of minority groups in National City than in the entire San Diego County. The obvious negative effect of the City of National City’s preference for sales tax generating retail establishments as opposed to

industrial businesses on wages was not considered. The rent or purchase price of a residence is strongly correlated with income.

### **Using the Exclusive Negotiation Agreement as an Excuse not to Comment is Unacceptable**

For example, in response to Letter 11 you say

“...this statement is directed towards an Exclusive Negotiation Agreement and does not pertain, and is not a specified objection to the 2007 Amendment.”

This is simply wishful thinking on your part. The letter says those parcels not owned by PSI are not blighted. The 2007 Amendment is about blight – how do they not pertain. You have not responded as to why those specific parcels not owned by PSI are blighted. This is a valid request of you that you must show evidence respond to before you can vote.

Your maps present all properties within the proposed area of the 2007 amendment as all having problems. You must show the evidence found by the CDC that they were blighted before June 13, 2007 or exempt them from your list. We say you have not identified a single property by address and described its specific problems. Doing so would allow community members to go to that property and affect solutions.

### **Why are You Spending City Resources on This?**

If you pass Resolution 14 and Ordinance 16, you will entail significant litigation costs and because of your past actions have a high risk of loosing in court including the California and U.S. Supreme Courts. Don't blame the property owners for your legal fees. By your own actions you are incurring the expense. Do explain to your constituents why sweet-heart deals for developers are more important than city services for the people.

### **CPOFPA**

In any event, the Citizens of California will be able in June of 2008 to end this abomination of eminent theft. The first step is to obtain enough signatures to place the California Property Owners and Farmland Protection Act (CPOFPA) act on the ballot. The property and store owners in Grantville, a San Diego community, showed the way. They gathered 1,000 signatures in the stores and other places that are most threatened by redevelopment.

In short, coercion by the City of National City was and is counterproductive. If you really want sound redevelopment, you should work in an equitable manner with the present property owners.

Yours respectfully,

Robert C. Leif, Suzanne B. Leif, and Anthony L. Bedford