

## PUBLIC STATEMENT REGARDING BROWN ACT COMPLIANCE

The agenda for the regular meeting of the Board of Directors of the Southeastern Economic Development Corporation held on July 23, 2008 described the closed session personnel matter involving discipline, dismissal or release of a public employee in compliance with the model format in the safe harbor provision of the Brown Act. As required by the Brown Act, timely written notice was delivered to the employee that disciplinary or other action could be taken in the closed session based on complaints or charges brought against the employee and that the employee had the right to request a public hearing. The impetus for the closed session was a written demand on July 18, 2008 by the mayor and several councilmembers that Ms. Smith resign as President of SEDC immediately or that the SEDC Board of Directors terminate her contract immediately at an emergency meeting of the Board.

The President was accompanied by her legal counsel during the Board's examination of her as a witness in the Board's investigation of the personnel matter. The examination of any or all witnesses in a personnel matter in closed session is permitted by the Brown Act. The President did not otherwise attend the closed session. No negotiations were conducted between the Board of Directors and the President in the closed session. At the conclusion of the closed session, the Chair of the Board immediately announced the unanimous Board action taken to invoke a 90-day notice clause to terminate the President's employment agreement and that a payment to be made at the time of departure was conditioned on the execution of a release. No claim or other communication threatening litigation by Ms. Smith had been received by the SEDC or publicly made as of the Board meeting on July 23<sup>rd</sup>.

The action taken by the Board of Directors did not alter the amount of Ms. Smith's salary and no other terms of her employment agreement were modified by Board action. The Termination of Employment Agreement and Mutual General Release Agreement was prepared by legal counsel for SEDC and legal counsel for the President in the days following the Board meeting. The termination agreement was provided to the Office of the City Attorney prior to its execution. No comments have been directly received by the SEDC from the Office of the City Attorney.

The City of San Diego and the Redevelopment Agency are not named in the termination agreement as parties to the mutual release. The operating agreement between the SEDC and the City of San Diego specifies that the SEDC is an independent contractor and not an agent of the City.