

# CITY OF PACIFICA CITY COUNCIL AGENDA

MAYOR JIM VREELAND  
MAYOR PRO TEM JULIE LANCELLE  
COUNCILMEMBER CALVIN HINTON  
COUNCILMEMBER SUE DIGRE  
COUNCILMEMBER PETER DEJARNATT

CITY COUNCIL CHAMBERS  
2212 BEACH BOULEVARD  
PACIFICA, CALIFORNIA 94044

## December 17, 2008 SPECIAL MEETING

[www.cityofpacifica.org](http://www.cityofpacifica.org)

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### 6:30 P.M. CLOSED SESSION

1. PURSUANT TO GOVERNMENT CODE SECTION 54956.8 Conference with real property negotiator: Discussion concerns price and terms of payment. Agency negotiator attending session: Stephen Rhodes. Property: 700 Coast Highway. Negotiating parties: City of Pacifica and Whole Energy Fuels Corporation.

### 7:00 p.m.

Call to Order  
Roll Call  
Salute to the Flag led by Councilmember Sue Digre  
Commission Liaisons: Member of the Open Space Committee  
Closed Session Report:

### CONSENT CALENDAR

Items on the consent calendar will be adopted by one motion unless a Councilmember or person in the audience requests, before the vote on the motion, to have an item discussed under the Consideration portion of the agenda. Time limit on comments is three minutes or less.

1. Approval of Disbursements dated 11/28/08 to 12/08/08 in the amount of \$488,135.45. Regular and quick checks numbered 2067 to 2221 (**Proposed action:** approve)
2. Approval of Minutes of Regular City Council Meeting of December 8, 2008 (**Proposed action:** approve)
3. Resolution Declaring Results of Election of November 4, 2008 (**Proposed action:** move to adopt the resolution next in order "A Resolution of the City Council of the City of Pacifica Declaring the Results of the Consolidated General Municipal Election held on November 4, 2008)
4. Authorize the Senior Programs Supervisor to Submit RFPs to San Mateo County Area Agency on Aging for Fiscal Periods 2009-2013 (**Proposed action:** authorize Senior Services staff to begin RFP process with the County of San Mateo Area Agency on Aging and authorize the City Manager to sign the following RFP required documents to enter into fiscal years 2009-2013 RFP: 2009 – 2013 RFP with the County of San Mateo Area Agency on Aging for the Congregate Nutrition Program. 2009 – 2013 RFP with the County of San Mateo Area Agency on Aging Contract with the County of San Mateo Area Agency on Aging for Contract with County of San Mateo Area Agency on Aging for the

Transportation Program; 2009 – 2013 RFP with the County of San Mateo Area Agency on Aging for the Meals on Wheels Program and Supplemental Meals on Wheels program)

- 5. Approve Submission of Letter of Interest for Mayor pro Tem Julie Lancelle to Fill Vacancy on the Congestion Management Environmental Quality Committee (Proposed action: approve submission of Letter of Interest to CMEQ)
- 6. Amendment No. 1 to Ground Lease by and between City of Pacifica (“landlord”) a municipal corporation and Whole Energy Fuels Corporation (“tenant”) a Washington Corporation (**Proposed action:** adopt a motion authorizing the City Manager to execute Amendment No. 1 to the Ground Lease between the City of Pacifica and Whole Energy Fuels Corporation)

**PUBLIC HEARING**

None.

During public hearings, an applicant or their agent and appellants have ten minutes for their opening presentation and three minutes for rebuttal before the public hearing is closed. Members of the public are limited to three minutes.

**COUNCIL COMMUNICATIONS**

The purpose of Council Communications is for Councilmembers to inform each other of items of potential interest to other Councilmembers, such as interagency meetings.

**ORAL COMMUNICATIONS**

This portion of the Agenda is available for the public to address the City Council on any issue that is not on the Agenda. Any person wishing to address the Council shall be recognized by the Mayor during Oral Communications, provided, however, that during the Oral Communications portion of the agenda, only items not on the agenda for that meeting may be addressed. All remarks shall be addressed to the Council as a body and not to any member thereof. Councilmembers shall not enter into debate with speakers under Oral Communications. A maximum time of three minutes will be allowed for any speaker. Pursuant to Pacifica Municipal Code Title 2, Chapter 1, Section 2-1.118 any person making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the Council shall be called to order by the presiding officer and, if such conduct continues, may, at the direction of the presiding officer, be ordered barred from further audience before the Council during the meeting.

**CONSIDERATION**

None.

**SPECIAL ORDER OF BUSINESS**

- |   |                                 |
|---|---------------------------------|
| ❖ <b>Outgoing Mayor’s Remarks</b>             | <b>Mayor Vreeland</b>           |
| ❖ <b>Presentation to Outgoing Mayor</b>       | <b>Mayor pro Tem Lancelle</b>   |
| ❖ <b>Presentation to Councilmember Hinton</b> | <b>Mayor Vreeland</b>           |
| ❖ <b>Election of Mayor and Mayor pro Tem</b>  | <b>Mayor Vreeland</b>           |
| ❖ <b>Oath of Office</b>                       | <b>Ginny Jaquith</b>            |
| ❖ <b>Music</b>                                | <b>The Four Seasons Quartet</b> |
| ❖ <b>Incoming Mayor’s Remarks</b>             |                                 |

**ADJOURNMENT**

*Refreshments*

\* \* \* \* \*

**NOTICE:** If you challenge a city’s zoning, planning or other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Judicial review of any city administrative decision may be had only if a petition is

filed with the court not later than the 90<sup>th</sup> day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period for litigation, in certain cases 30 days following the date of final decision.

The City of Pacifica will provide assistance for disabled citizens upon at least 72 hours advance notice to the City Manager's Office (650) 738-7301, or send request via email to: [o'connellk@ci.pacifica.ca.us](mailto:o'connellk@ci.pacifica.ca.us) If you need sign language assistance or written material printed in a larger font or taped, seventy-two hour notice is necessary. All meeting rooms are accessible to the disabled.

*The Pacifica Municipal Code is available on line at the City's website ([www.cityofpacifica.org](http://www.cityofpacifica.org)); at the website, scroll down to find the Link.*

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**Posted agendas:**

Agendas are posted the Friday prior to the City Council meeting date, at the entrance to City Hall, 170 Santa Maria Avenue

**View on the Internet:**

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Send a request to Kathy O'Connell, at [o'connellk@ci.pacifica.ca.us](mailto:o'connellk@ci.pacifica.ca.us)

**City Clerk's Office/City Manager's Office**

City Hall, 170 Santa Maria Avenue, 2<sup>nd</sup> Floor

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A complete agenda packet is available for review at the City Council meeting.

#### **HOW TO REACH YOUR LEGISLATORS**

- Governor Arnold Schwarzenegger, State Capitol Building, Sacramento CA 95814 (916) 445-2841
- State Senator Leland Yee, 400 So. El Camino Real, Ste. 630, San Mateo, CA 94402 (650) 340-8840
- Assemblymember Gene Mullin, 1528 So. El Camino Real, Ste 302, San Mateo CA 94402 (650) 341-4319
- Congresswoman Jackie Speier, 400 So. El Camino Real, Ste 410, San Mateo CA 94402 (650) 342-0300
- Senator Barbara Boxer, 1700 Montgomery Street, Ste 240, San Francisco CA 94111 (415) 403-0100
- Senator Dianne Feinstein, #1 Post Street, Ste 2450, San Francisco CA 94104 (415) 393-0710
- President George W. Bush, 1600 Pennsylvania Ave. NW, Washington DC 20500 (202) 456-1111

**CITY OF PACIFICA  
COUNCIL AGENDA SUMMARY REPORT  
December 18, 2008**

AGENDA ITEM NO. 3

**SUBJECT:**

Adoption of Resolution Declaring Results of Election of November 4, 2008

**ORIGINATED BY:**

City Clerk's Office

**DISCUSSION:**

Adoption of Resolution of the City Council of the City of Pacifica declaring results of General Municipal Election Consolidated with the Presidential Election held on November 4, 2008.

**FISCAL IMPACTS:**

None

**ATTACHMENTS:**

Resolution

**COUNCIL ACTION REQUESTED:**

Move to adopt the resolution next in order entitled "A Resolution of the City Council of the City of Pacifica Declaring the Results of the Consolidated General Municipal Election Held on November 4, 2008"

**RESOLUTION NO.  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA  
DECLARING THE RESULTS OF THE CONSOLIDATED GENERAL  
MUNICIPAL ELECTION HELD ON NOVEMBER 4, 2008**

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**WHEREAS**, a consolidated general municipal election was held and conducted in the City of Pacifica on the 4th day of November, 2008, as required by law; and

**WHEREAS**, the election of candidates to the following seats: City Council (two seats), were placed on the November 4, 2008 Official Ballot; and

**WHEREAS**, California Elections Code provides that for a consolidated election, the City Clerk, upon receipt of the results of the election from the elections official conducting the election, shall certify the results to the governing body; and

**WHEREAS**, on December 3, 2008 the City Clerk received the final Certification in connection with the subject election from the San Mateo County Chief Elections Officer; and

**WHEREAS**, a copy of the final Certification is attached hereto as Exhibit "A" and incorporated herein by reference; and

**WHEREAS**, the governing body must, no later than the third Friday following presentation of the 28-day canvass of returns, adopt a resolution which: recites the fact of the election; the whole number of votes cast in the City; the names of the persons voted for; what office each person was voted for; the number of votes given at each precinct to each person; and the number of votes given in the City to each person and the City Council must also declare elected the persons for whom the highest number of votes were cast for each office.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Pacifica hereby resolves as follows:

1. The results of the Consolidated General Municipal Election of November 4, 2008, for the election of candidates to the office of City Council (two seats) are declared and determined to be as set forth in the Certification of the San Mateo County Chief Elections Officer, attached as Exhibit "A".

1. The names of the persons voted for at said municipal election for the office of City Councilmember and the number of votes cast for each candidate including absentee ballots, as shown on Exhibit A attached hereto, are as follows:

Mary Ann Nihart	8,944
Pete DeJarnatt	6,837
Cal Hinton	6,386
Jeffrey Simons	4,508
Tod Schlesinger	2,513

2. Maryann Nihart and Pete DeJarnatt received the highest number of votes cast for the office for which each was a candidate and are thereby declared elected to said respective City Council offices for terms ending November 2012, and the City Clerk is hereby authorized to deliver to each of them a Certificate of Election and to administer the Oath of Office prescribed in the Constitution of the State of California.

PASSED AND ADOPTED at a special meeting of the City Council of the City of Pacifica, California, held on December 17, 2008 by the following vote of the members thereof:

AYES: Councilmembers,  
NOES: Councilmembers,  
ABSENT: Councilmembers,  
ABSTAIN: Councilmembers,

\_\_\_\_\_  
James M. Vreeland, Mayor

ATTEST:

\_\_\_\_\_  
Kathy O'Connell, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Cecilia Quick, City Attorney



# Warren Slocum

Chief Elections Officer & Assessor-County Clerk-Recorder

555 County Center  
Redwood City, CA 94063  
**phone** 650.363.4988 **fax** 650.363.1903  
**email** wslocum@smcare.org  
**web** www.smcare.org

December 2, 2008

Ms. Kathy O'Connell, City Clerk  
City of Pacifica  
170 Santa Maria Avenue  
Pacifica, CA 94044

**Subject:** Certificate from the Chief Elections Officer for the City of Pacifica Municipal Election held November 4, 2008

Dear Ms. O'Connell:

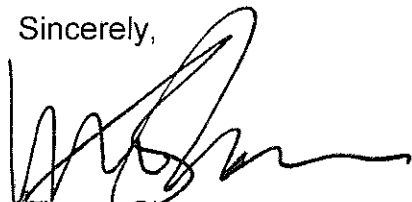
Congratulations on another successful election! While it took months and months of planning, preparation and hard work, I am most pleased that the voters in San Mateo County were well served. I can honestly say that it was one of the smoothest, best run elections that I've been a part of and I wish to thank you for your assistance in helping to make this so.

By now, I am sure you are in the midst of preparations to swear-in your newly elected officials. We wish them the best as the days ahead will undoubtedly be filled with many challenges.

I am writing to let you know that we have completed the official canvass of the vote and I have certified the election results. Attached hereto is the official Chief Elections Officer's Certification of the November 4, 2008 Municipal Election for your city, that was held in conjunction with the Presidential General Election.

It has been a pleasure to work with you in conducting this election and I look forward to serving you again in future elections.

Sincerely,



Warren Slocum

Enclosure: Certification of Election

## CERTIFICATE OF THE CHIEF ELECTIONS OFFICER

In the Matter of the CANVASS OF VOTE CAST )  
at the PRESIDENTIAL GENERAL ELECTION )  
held on November 4, 2008 )

I, **WARREN SLOCUM**, Chief Elections Officer of the County of San Mateo, State of California hereby certify;

**THAT** an election was held within the boundaries of the CITY OF PACIFICA on Tuesday, November 4, 2008 for the purpose of electing two (2) Members to the City Council for four (4) year terms; and I caused to have processed and recorded the votes from the canvass of all ballots cast at said election within the boundaries of the CITY OF PACIFICA.

I **HEREBY FURTHER CERTIFY** that the record of votes cast at said election are set forth in Exhibit "A" attached hereto and incorporated herein by reference as though fully set forth at length.

**IN WITNESS WHEREOF**, I hereunto affix my hand and seal this 2<sup>nd</sup> day of December, 2008 and file this date with the City Clerk of the City of Pacifica.



**WARREN SLOCUM**  
Chief Elections Officer &  
Assessor-County Clerk-Recorder



CITY OF PACIFICA, MEMBERS, CITY COUNCIL												
18	Registration	Ballots Cast	Turnout (%)		CITY OF PACIFICA MEMBERS, CITY COUNCIL Vote for 2 JEFFREY SIMONS	TOD M. SCHLESINGER	CAL HINTON	PETE DEJARNATT	MARY ANN NIHART			
3501	1,146	881	76.9		175	124	281	249	359			
3502	1,119	837	74.8		179	84	261	277	399			
3503	924	730	79.0		154	87	244	204	289			
3504	755	590	78.1		146	78	221	182	240			
3505	1,125	760	67.6		133	101	237	235	296			
3506	114	91	79.8		17	15	24	17	38			
3507	563	466	82.8		69	64	114	137	206			
3508	916	766	82.5		159	86	240	321	373			
3509	912	733	80.4		138	81	255	251	324			
3510	658	551	83.7		98	64	151	206	290			
3511	614	474	77.2		107	57	137	169	248			
3512	628	501	79.8		105	57	119	179	287			
3513	719	621	86.4		114	51	187	225	363			
3514	543	446	82.1		113	67	138	154	192			
3515	989	853	86.2		180	108	226	349	414			
3516	226	202	89.4		46	21	53	102	106			
3517	556	480	86.3		106	68	142	202	249			
3518	892	758	85.0		240	123	259	230	300			
3519	690	587	85.1		184	87	217	203	225			
3520	853	719	84.3		219	108	252	225	306			
3521	643	526	81.8		135	75	189	185	237			
3522	1,014	831	82.0		215	104	280	306	379			
3523	646	570	88.2		115	69	230	230	268			
3524	755	651	86.2		169	72	228	220	279			
3525	690	588	85.2		154	84	170	201	279			
3526	838	726	86.6		200	94	237	256	327			
3527	654	543	83.0		129	77	176	196	255			
3528	821	706	86.0		169	102	261	247	290			
3529	810	650	80.2		120	71	191	269	313			
3530	969	805	83.1		184	98	297	246	346			
3531	814	692	85.0		166	89	244	234	316			
3532	259	224	86.5		30	23	77	95	92			
3533	184	152	82.6		40	24	48	35	59			
Voting Center Totals	24,039	260	1.1		55	27	69	81	127			
Vote By Mail Totals	24,039	8,472	35.2		2050	1183	2983	3105	3899			
Election Day Totals	24,039	10,968	45.6		2403	1303	3334	3651	4918			
Grand Totals	24,039	19,700	82.0		4508	2513	6386	6837	8944			

Voting Center Totals 18	CITY OF PACIFICA, MEMBERS, CITY COUNCIL											
	Registration	Ballots Cast	Turnout (%)	CITY OF PACIFICA MEMBERS, CITY COUNCIL Vote for 2 JEFFREY SIMONS	TOD M. SCHLESINGER	CAL HINTON	PETE DEJARNATT	MARY ANN NIHART				
12TH CONGRESSIONAL DISTRICT	24,039	260	1.1	55	27	69	81	127				
19TH ASSEMBLY DISTRICT	24,039	260	1.1	55	27	69	81	127				
3RD SUPERVISORIAL DISTRICT	24,039	260	1.1	55	27	69	81	127				
8TH SENATORIAL DISTRICT	24,039	260	1.1	55	27	69	81	127				
BOARD OF EQUALIZATION	24,039	260	1.1	55	27	69	81	127				
CITY OF PACIFICA	24,039	260	1.1	55	27	69	81	127				
PACIFICA SCHOOL DISTRICT	23,482	254	1.1	53	26	68	80	125				
SAN MATEO COUNTY	24,039	260	1.1	55	27	69	81	127				
STATEWIDE DISTRICT	24,039	260	1.1	55	27	69	81	127				
<b>Voting Center Totals</b>	<b>24,039</b>	<b>260</b>	<b>1.1</b>	<b>55</b>	<b>27</b>	<b>69</b>	<b>81</b>	<b>127</b>				

Grand Totals 18	CITY OF PACIFICA, MEMBERS, CITY COUNCIL											
	Registration	Ballots Cast	Turnout (%)	CITY OF PACIFICA MEMBERS, CITY COUNCIL Vote for 2 JEFFREY SIMONS	TOD M. SCHLESINGER	CAL HINTON	PETE DELARNATT	MARY ANN NIHART				
12TH CONGRESSIONAL DISTRICT	24,039	19,700	82.0	4508	2513	6386	6837	8944				
19TH ASSEMBLY DISTRICT	24,039	19,700	82.0	4508	2513	6386	6837	8944				
3RD SUPERVISORIAL DISTRICT	24,039	19,700	82.0	4508	2513	6386	6837	8944				
8TH SENATORIAL DISTRICT	24,039	19,700	82.0	4508	2513	6386	6837	8944				
BOARD OF EQUALIZATION	24,039	19,700	82.0	4508	2513	6386	6837	8944				
CITY OF PACIFICA	24,039	19,700	82.0	4508	2513	6386	6837	8944				
PACIFICA SCHOOL DISTRICT	23,482	19,233	81.9	4421	2451	6237	6690	8755				
SAN MATEO COUNTY	24,039	19,700	82.0	4508	2513	6386	6837	8944				
STATEWIDE DISTRICT	24,039	19,700	82.0	4508	2513	6386	6837	8944				
Voting Center Totals	24,039	260	1.1	55	27	69	81	127				
Vote By Mail Totals	24,039	8,472	35.2	2050	1183	2983	3105	3899				
Election Day Totals	24,039	10,968	45.6	2403	1303	3334	3651	4918				
Grand Totals	24,039	19,700	82.0	4508	2513	6386	6837	8944				

CITY OF PACIFICA  
COUNCIL AGENDA SUMMARY REPORT

December 17, 2008

AGENDA ITEM NO. 4

**SUBJECT:**

Authorize the Senior Services Programs Supervisor to submit RFPs to San Mateo County Area Agency on Aging for fiscal periods 2009-2013.

**ORIGINATED BY:**

Parks, Beaches and Recreation Department Senior Services Division.

**DISCUSSION:**

Pacifica Senior Services is nearing the end of its current RFP (2005-2009) for the below services with the San Mateo County Area Agency on Aging (AAA). The new RFP cycle will cover fiscal years 2009 – 2013. Funding for these RFP's are from Older Americans Act (OAA) monies and are for services to seniors 60+ years old. These federal funds are administered through the San Mateo County Health Services Agency, Aging and Adult Services Division (AAS).

Below is the current breakout of services Pacifica is receiving OAA funding for 2008/09 fiscal year.

**Congregate Nutrition**

Congregate Nutrition Program is \$45,007 to plan, prepare, and serve 400 unduplicated seniors 12164 meals and provide 12 nutrition education presentations. ADA guidelines must meet 1/3 daily nutrition requirements. Monies paid are based upon units of service @ \$3.70 per meal.

**Transportation**

Transportation Program is \$6,750 to serve 65 unduplicated seniors who will receive 3,375 one way trips to the senior programs at the Community Center, shopping trips, activities and events. This is a flat amount of funds, as we will over serve the units of service. Reimbursement is based upon units of service @ \$2.00 per one way trip until maximum grant amount is achieved.

**Meals on Wheels and Supplemental Meals on Wheels (SMOW is for clients ages 18-59 years old)**

Meals on Wheels is \$57,800 to plan, prepare and deliver 11,560 meals to homebound seniors and others with disabilities, as well as the initial intake screening and quarterly reassessment of each client. Reimbursement rate is based upon \$5.00 per meal.

SMOW funding is not through the AAA OAA monies. OAA monies can only be used for seniors 60+ years old. SMOW funding is provided through the County of San Mateo Trust Fund. County Trust funds allocated for 2008/09 funding for this program is \$7,470—representing 1245 non-senior meals. Reimbursement rate is based upon \$6.00 per meal.

Additional grant program support for any of the three services listed above for 2008/09 is \$13726. These funds can be utilized for over-served units of service in any of the three

federally funded programs. In the past the Supervisor has been able to apply for additional funds for over-served units of service. These funds are decided by AAS committees that oversee all AAA services in the County.

The Senior Services Supervisor will be applying for additional one-time only funds in the third quarter of this fiscal year. These funds are monies unpaid in the County to providers who underserved in the contacted service area. A percentage of these funds is then available to all providers in the County providing the same service. Pacifica has done extremely well in the past with these funds for purchasing kitchen production equipment, service equipment, computers and emergency preparedness items.

**ATTACHMENTS:**

None

**COUNCIL ACTION REQUESTED:**

Authorize Senior Services staff to begin RFP application process with the County of San Mateo Area Agency on Aging and authorize the City Manager to sign the following RFP-required documents to enter into fiscal years 2009 – 2013 RFP:

- 2009 – 2013 RFP with the County of San Mateo Area Agency on Aging for the Congregate Nutrition Program.
- 2009 – 2013 RFP with the County of San Mateo Area Agency on Aging for Contract with the County of San Mateo Area Agency on Aging for the Transportation Program.
- 2009 – 2013 RFP with the County of San Mateo Area Agency on Aging for Contract with the County of San Mateo Area Agency on Aging for the Meals on Wheels Program and Supplemental Meals on Wheels program.

**CITY OF PACIFICA  
COUNCIL AGENDA SUMMARY REPORT  
December 17, 2008**

AGENDA ITEM NO. 5

**SUBJECT:**

Approve Submission of Letter of Interest for Mayor pro Tem Julie Lancelle to Fill Vacancy on the Congestion Management Environmental Quality Committee.

**ORIGINATED BY:**

City Manager's Office

**DISCUSSION:**

A vacancy exists on the Congestion Management Environmental Quality Committee and Mayor pro Tem Lancelle would like to submit a letter of interest to serve on the committee.

**COUNCIL ACTION REQUESTED:**

Approve submittal of a Letter of Interest for Mayor pro Tem Julie Lancelle to Fill Vacancy on the Congestion Management Environmental Quality Committee.

CITY OF PACIFICA  
COUNCIL AGENDA SUMMARY REPORT  
December 17, 2008

Agenda Item No. 6

**SUBJECT:**

Amendment No. 1 to Ground Lease by and between City of Pacifica ("landlord"), a municipal corporation, and Whole Energy Fuels Corporation ("tenant"), a Washington corporation

**ORIGINATED BY:**

City Manager

**DISCUSSION:**

On January 14, 2008, the City entered into a Ground Lease with Whole Energy Fuel Corporation for the construction and operation of a biodiesel facility at the Calera Wastewater Treatment Plant site. Pursuant to the Lease, Whole Energy was to complete a series of preliminary tasks prior to December 31, 2008.

They have been working diligently and have accomplished a number of the required tasks. Among other things, Whole Energy has successfully obtained permits from the Air Quality Management Board, the California Coastal Commission, and the City of Pacifica's land use permits, as well as obtained a building permit for the structure. They have obtained insurance and submitted preliminary plans, and are cooperating with the City departments to complete the local permitting process for the installation of the plant equipment.

Due to the delays in the Coastal Commission permit process, and the scheduling difficulties in the holiday season, there is a risk that they will not complete all of the tasks prior to the end of the year. Staff believes that the additional time will allow Whole Energy to complete the final requirements for the installation of the plant equipment and meet the other requirements of the lease agreement.

**FISCAL IMPACT:**

None for extension of agreement

**ATTACHMENTS:**

Amendment No. 1 to lease agreement

**COUNCIL ACTION REQUESTED:**

Adopt a motion authorizing the City Manager to execute Amendment No.1 to the Ground Lease between the City of Pacifica and Whole Energy Fuels Corporation.

**AMENDMENT NO. 1 TO GROUND LEASE BY AND BETWEEN CITY OF  
PACIFICA (“LANDLORD”), A MUNICIPAL CORPORATION, AND WHOLE  
ENERGY FUELS CORPORATION (“TENANT”), A WASHINGTON  
CORPORATION**

**RECITALS**

- A. Landlord and Tenant entered into a Ground Lease, dated for reference purposes as of January 14, 2008 (“Ground Lease”), pursuant to which Landlord leased certain City-owned Premises to Tenant, subject to various conditions. The parties intend for Tenant to construct, operate and maintain a waste cooking oil recycling/biodiesel production facility.
- B. Pursuant to Section 2.03 of the Ground Lease, the Term shall commence upon full satisfaction of conditions set forth in Section 2.04 (“Commencement Date”). The Term must commence by December 31, 2008.
- C. The parties desire to extend the date by which the Term must commence by six months, to June 30, 2009.

**NOW, THEREFORE**, in exchange of valuable consideration, the parties agree as follows:

**AGREEMENT**

- 1. This First Amendment is dated December 17, 2008 (“Effective Date”).
- 2. The third sentence of Section 2.03 is hereby amended to read as follows:  
“In the event the Term has not commenced by June 30, 2009, then this Lease shall terminate and neither party shall have any further rights or obligations hereunder, except for those obligations by Tenant which by the terms survive termination or expiration of this Lease.” Except as modified herein, the remainder of Section 2.03 remains in full force and effect as set forth in the Ground Lease.
- 3. Except as otherwise modified by this First Amendment, all provisions of the Ground Lease remain in full force and effect.
- 4. The signatories warrant and represent that they are authorized to sign on behalf of the respective parties.
- 5. Time is of the essence in this First Amendment.

CITY OF PACIFICA

Whole Energy



By: \_\_\_\_\_  
Stephen A. Rhodes  
City Manager

By: \_\_\_\_\_  
Martin Wahl  
Director, Business Development

ATTEST:

By: \_\_\_\_\_  
Kathy O'Connell  
City Clerk

APPROVED AS TO FORM

By: \_\_\_\_\_  
Cecilia M. Quick  
City Attorney