

RESOLUTION NUMBER R- 300126

ADOPTED ON FEB 14 2005

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE ACCEPTANCE OF A QUITCLAIM DEED AND APPLICATION FOR AND EXPENDITURE OF GRANT FUNDS FOR PENASQUITOS TOWN CENTER LINEAR PARK - SITE AND DEVELOPMENT.

WHEREAS, the donation of the linear park site is based on the intent of certain provisions, in the Development Agreement and Option Agreement entered into between the City and American Newland Associates resulting in the donation of various parcels to the YMCA with the intent that if such parcels were not constructed and used for YMCA activity, the fee title would transfer to the City; and

WHEREAS, the linear park site was originally a 4.48-acre parcel set out in that Development Agreement with such site donated by the developer to the YMCA; and

WHEREAS, the YMCA has constructed or plans to construct certain facilities and/or use portions of the original 4.48-acre parcel so that the linear park site to be donated to the City is now 1.757 acres with the entire site subject to certain access road and water pipeline easements in favor of the San Diego County Water Authority; and

WHEREAS, as a result of a recent lawsuit settlement between the City and Westbrook Penasquitos, L.P., *City of San Diego v. Westbrook Penasquitos*, San Diego Superior Court Case No. GIC814382, Westbrook completed design drawings for the Penasquitos Town Center Linear Park and made a payment of \$200,000 to the City to fulfill Westbrook's obligations under an original development agreement authorized by the City on November 14, 1988, Document No. OO-17179, and assigned to Westbrook on August 14, 1997; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the City Manager is authorized to accept a quitclaim deed executed by the YMCA of San Diego County, executed in favor of the City of San Diego, bearing the date of January 13, 2005, a copy of which is on file with the office of the City Clerk as Document No. RR- 300126, donating in favor of the City of San Diego, a 1.757-acre strip of land to be developed as a public linear park as more particularly described in the attached Exhibit "A".
2. That the City Manager or his representative is authorized to apply to the State of California's Clean Air, Safe Parks, and Coastal Protection Act of 2002, Per Capita Program in the amount of \$75,000, CIP No. 29-874.0, Penasquitos Town Center Linear Park [Project], for the construction of the park.
3. That the City Manager or his representative is authorized to take all necessary actions to secure funding from the Clean Air, Safe Parks, and Coastal Protection Act of 2002, Per Capita Program in the amount of \$75,000, CIP No. 29-874.0, for the Project.
4. That the City Manager or his representative is authorized to accept, appropriate and expend the grant funds, upon receipt of a fully executed grant agreement.
5. That the City Auditor and Comptroller is authorized to establish a special interest-bearing account for the grant, upon receipt of fully executed grant agreement.
6. That the Fiscal Year 2005 Capital Improvement Program is amended by adding CIP No. 29-874.0, for the Project.

7. That an increase is authorized in the Fiscal Year 2005 Capital Improvements Program Budget by \$200,000 in CIP No. 29-874.0, Fund No. 63022, Private Contributions – Capital Improvements Program.

8. That an increase is authorized in FY 2005 CIP Budget by \$75,000 in CIP No. 29-874.0 Penasquitos Town Center Linear Park in Clean Air, Safe Parks, and Coastal Protection Act of 2002, Per Capita Program, contingent upon receipt of a fully executed grant agreement.

9. That the City Auditor and Comptroller is authorized to appropriate and expend \$200,000 from CIP No. 29-874.0, Fund No. 63022, Penasquitos Town Center Linear Park, Private Contributions – Capital Improvements Program in the amount of \$200,000.

10. That the City Auditor and Comptroller is authorized to appropriate and expend \$75,000 from CIP 29-874.0, Penasquitos Town Center Linear Park in Clean Air, Safe Parks, and Coastal Protection Act of 2002, Per Capita Program for the purpose of constructing the Project, contingent upon receipt of a fully executed grant agreement.

11. The City Clerk is authorized and directed to deliver the deed and a certified copy of this resolution to the Real Estate Assets Department for further handling.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Shannon Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als:cla
01/26/05
Or.Dept:Park&Rec.
Aud.Cert: 2500684
R-2005-665
MMS#1169

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2500684
DEPT. _____
NO.: 446

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \$200,000.00 Fund: 63022

Purpose: Authorizing the increase, appropriation and expenditure of funds for Penasquitos Town Center Linear Park - Site Acquisition and Development and the addition of CIP 298740 in FY 05 CIP.

Date: January 25, 2005 By: Yeshi Bezuneh
Yeshi Bezuneh
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
001	0	63022			9544						\$200,000.00
TOTAL AMOUNT											\$200,000.00

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: _____

Vendor: _____

Purpose: _____

Date: _____ By: _____
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT											

AC-361 (REV 2-92)

FUND OVERRIDE

R-300126

FEB 14 2005

AC 2500684