

S4101
5/8/06

RESOLUTION NUMBER R- 301430
DATE OF FINAL PASSAGE MAY 11 2006

WHEREAS, in November, 2001, the City filed a Complaint in Eminent Domain against D.R. Horton, San Diego Superior Court Case No. GIC777603-1, to acquire 12.31 acres of a 39.38 acre parcel for the construction of State Route 56; and

WHEREAS, the case came for trial in August 2003, and the jury verdict was \$5,589,200, which was paid; and

WHEREAS, the trial judge granted the property owner's motion for a new trial, which was upheld on appeal. The matter has been set for a retrial on November 17, 2006; and

WHEREAS, in preparation for the retrial, the property owner made a motion in court to increase the deposit of probable compensation to \$16,000,000, which was granted; and

WHEREAS, to comply with the court's order, the City must deposit an additional \$10,410,800 with the State Treasury Condemnation Fund by May 12, 2006; NOW,
THEREFORE,

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

1. That the Fiscal Year 2006 Capital Improvement Program Budget for CIP No. 52-463.0 is amended by increasing the budget amount by \$10,410,800.
2. That the appropriation of an amount not to exceed \$10,410,800 from General Fund Unappropriated Reserves, Fund 100, is authorized, solely and exclusively for the purpose of providing funds for the right-of-way acquisitions costs for CIP No. 52-463.0.

3. That the issuance of a check in the amount of \$10,410,800, from CIP No. 52-463.0, Fund 100, made payable to the State Treasury Condemnation Fund, is authorized to satisfy a court ordered payment in the State Route 56 eminent domain case, *City of San Diego v. D.R. Horton, et al.*, San Diego Superior Court Case No. GIC777603-1, contingent upon the City Auditor certifying that the funds are available.

4. That the City Auditor and Comptroller, upon advice from the administering department, is authorized to transfer excess budgeted funds, if any, to the appropriate reserves.

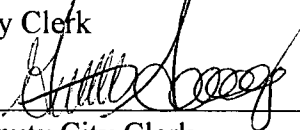
APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Leslie A. FitzGerald
Chief Deputy City Attorney

LAF:pev
04/26/06
05/04/06 COR.COPY
Aud.Cert.
Or.Dept:Dept. of Fin.
R-2006-918

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 08 2006.

ELIZABETH S. MALAND
City Clerk


By 
Deputy City Clerk

Approved: 5-11-06
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

 301430

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

CERTIFICATE OF UNALLOTTED BALANCE

AC 2600767

ORIGINATING

DEPT. NO.: 045

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: _____ Fund: _____

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										

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: \$10,410,800.00

Vendor: State Treasury Condemnation Fund

Purpose: To authorize the appropriation of \$10,410,800.00 from the General Fund Unappropriated Reserves for the expenditure of funds needed to comply with the court order in the State Route 56 (CIP 52-463.0) eminent domain case, City of San Diego v. D.R. Horton, et al.

Date: April 27, 2006

By: *Leonard J. Aquente*
 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	100			9544					\$10,410,800.00
TOTAL AMOUNT										\$10,410,800.00

AC-361 (REV 2-92)

FUND OVERRIDE

AC 2600767

R-301430

MAY 11 2006

Passed by the Council of The City of San Diego on MAY 08 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 11 2006.

AUTHENTICATED BY:

(Seal)

JERRY SANDERS
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Mary-Cepeda*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number *R-301430*