

RESOLUTION NUMBER R- 305008

DATE OF FINAL PASSAGE JUN 29 2009

A RESOLUTION AUTHORIZING THE MAYOR TO APPLY UNDER THE AUSPICES OF THE CALIFORNIA DEPARTMENT OF FISH AND GAME TO THE UNITED STATES FISH AND WILDLIFE SERVICE FOR SECTION 6 GRANT FUNDS AND TO TAKE ALL ACTIONS NECESSARY TO SECURE FUNDING FOR LAND ACQUISITION IN EAST ELLIOTT AND OTAY MESA; AUTHORIZING THE COMPTROLLER TO ACCEPT, APPROPRIATE AND EXPEND GRANT FUNDS FOR LAND ACQUISITION, TO INCREASE THE FY 2009 CIP BUDGET, TO TRANSFER FUNDS FROM WETLAND ACQUISITION FUND 10545, ESTABLISH AN INTEREST-BEARING FUND, ACCEPT AND DEPOSIT GRANT MATCH FUNDS FROM THE NATIONAL FISH AND WILDLIFE FOUNDATION, AND APPROPRIATE AND EXPEND FUNDS PLUS INTEREST FOR LONG-TERM MANAGEMENT OF PROPERTIES; AND AUTHORIZING THE REAL ESTATE ASSETS DEPARTMENT DIRECTOR TO ACQUIRE LAND AND EXECUTE AND RECORD CONSERVATION EASEMENTS FOR THE PROJECT.

WHEREAS, the Cooperative Endangered Species Conservation Fund [Fund] is authorized under Section 6 of the federal Endangered Species Act and provides funding to states and territories for species and habitat conservation actions on non-federal lands; and

WHEREAS, in 1997, the United States Congress established the Habitat Conservation Plan [HCP] Land Acquisition Grants program as one of the grant categories under the Fund; and

WHEREAS, under the HCP Land Acquisition Grants program, the United States Fish and Wildlife Service [USFWS] grants funds to states for land acquisitions that are associated with approved HCPs, providing habitat protection adjacent to HCP areas with a focus on endangered species and their supporting ecosystems; and

WHEREAS, the HCP Land Acquisition Grants program has three primary purposes:  
(1) to fund land acquisitions that complement, but do not replace, mitigation responsibilities

contained in HCPs; (2) to fund land acquisitions that have important benefits for listed and candidate species; and (3) to fund land acquisitions that have important benefits for ecosystems that support listed and candidate species; and

WHEREAS, pursuant to 50 CFR Part 81 sections 81.3 and 81.8, state agencies with an approved cooperative agreement with the Secretary of the Interior are eligible to receive HCP Land Acquisition Grant funds and may work with cities as sub-grantees to expend the funds on mutually beneficial conservation efforts; and

WHEREAS, on August 28, 1991, the California Department of Fish and Game [CDFG] entered into an approved cooperative agreement with the Secretary of the Interior through the delegated authority of the USFWS Director; and

WHEREAS, the State of California has enacted the Natural Community Conservation Planning Act [NCCPA] that adequately and actively conserves endangered and threatened species and authority resides in the CDFG to implement the conservation purposes of the NCCPA; and

WHEREAS, the City of San Diego, through an adopted Subarea Plan (Resolution No. R-288455 dated March 18, 1997), is part of a Multiple Species Conservation Program [MSCP], which is a joint HCP and Natural Community Conservation Plan covering approximately 900 square miles including the City of San Diego, the County of San Diego, and ten other jurisdictions; and

WHEREAS, the CDFG may work together with the City of San Diego to prepare a Project proposal to submit to the USFWS as an application for HCP Land Acquisition Grant funds to acquire land to complement the City's MSCP Subarea Plan; and

WHEREAS, as part of the City's MSCP Implementing Agreement, the City is required to conserve 52,727 acres; to date, 50,541 acres have been conserved or obligated for future conservation; and

WHEREAS, the City desires to submit, along with the CDFG, a grant application in order to receive \$4,918,000 in HCP Land Acquisition Grant funds for land acquisition including important and unprotected vernal pool habitats in East Elliott and Otay Mesa that are threatened due to ongoing off-road activity and development pressures; and

WHEREAS, Properties purchased with the HCP Land Acquisition Grant funds would be owned by the General Fund and managed in perpetuity, consistent with the conservation needs of the species, by the Open Space Division of the City Parks and Recreation Department; and

WHEREAS, pursuant to 50 CFR 81 section 81.8, the HCP Land Acquisition Land Grant program requires that grant recipients contribute a cost share [cost share or match] of at least 25 percent of the total grant funds to be awarded; and

WHEREAS, the City of San Diego is prepared to provide \$2,928,875 of the cost share for the HCP Land Acquisition to provide for long term management and to acquire additional lands consisting of rare and sensitive habitats in East Elliott and Otay Mesa; and

WHEREAS, the total City match of \$2,928,875 would be provided as follows:

(1) \$518,000 from the Wetland Acquisition Fund 10545 for land acquisition; (2) 264 acres of open space land acquired in East Elliott with a value of at least \$2,310,875; and

WHEREAS, the National Fish and Wildlife Foundation [NFWF] is proposing to provide \$80,000 in non-federal grant funds to be used by the City as a match to the federal HCP Land

Acquisition Grant funds for the long-term management and/or restoration of the properties acquired; and

WHEREAS, USFWS award of the HCP Land Acquisition Grant funds would complement, but not replace, the City of San Diego's legal responsibilities under the MSCP Implementing Agreement (approved by City Council on March 19, 1997 by Resolution No. R-288455) and will help to ensure the long-term viability and sustainability of native ecosystem functions throughout the MSCP with no impact to the City's General Fund; and

WHEREAS, this action is exempt from the California Environmental Quality Act [CEQA] pursuant to CEQA Guidelines Section 15307 on the basis that these are actions to be taken to assure the maintenance, restoration, or enhancement of natural resources, and the regulatory process involves procedures for the protection of the environment; and pursuant to CEQA Guidelines Section 15313 on the basis that the action would consist of the acquisition of lands for fish and wildlife conservation purposes; NOW, THEREFORE,

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

1. That the Council authorizes the Mayor or designee to apply under the auspices of the CDFG to the USFWS for \$4,918,000 in HCP Land Acquisition Grant funding for land acquisition in East Elliott and Otay Mesa [Project].

2. That the Council authorizes the Mayor or designee to take all necessary actions to secure funds from the USFWS for the Project, including, but not limited to, all actions necessary to receive public funds through the CDFG and entering into and executing any necessary agreements.

3. That the Council authorizes the Comptroller to accept HCP Land Acquisition Grant funding in the amount of \$4,918,000 for the purposes of the Project and to establish a special interest-bearing fund for the grant, if secured.

4. That the Council authorizes the Comptroller accept, appropriate, and expend funds for the Project, if HCP Land Acquisition Grant funding is secured.

5. That the Council authorizes the Comptroller to amend the Fiscal Year 2009 Capital Improvements Program [CIP] Budget by increasing CIP No. 37-443.0 by \$5,436,000, of which \$4,918,000 is from HCP Land Acquisition Grant funds and \$518,000 is from Wetland Acquisition Fund 10545, contingent upon receipt of a fully executed grant agreement and notification from CDFG of official designation to receive grant funds.

6. That the Council authorizes the Comptroller to appropriate and expend an amount not to exceed \$5,436,000 from CIP 37-443.0 to provide funds for the purpose of land acquisition within East Elliott and Otay Mesa, contingent upon receipt of a fully executed grant agreement and upon certification that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

7. That the Council authorizes the Real Estate Assets Department Director to expend funds in an amount not to exceed \$5,436,000 from CIP 37-443.0 and to execute any and all documents for the purposes of land acquisition for this Project, once grant funding is secured.

8. That the Council authorizes the Comptroller to establish an interest bearing fund, titled Land Management Fund for the 2009 Section 6 Grant Properties, and to transfer \$20,000 from Wetland Acquisition Fund 10545 to this fund.

9. That the Council authorizes the Comptroller to accept and deposit \$80,000 in matching grant funds from the NFWF - California Environmental Management Fund #2002-0318-026 into the Land Management Fund for the 2009 Section 6 Grant Properties for the management and/or restoration of the 2009 Section 6 Grant Properties.

10. That the Council authorizes the Comptroller to appropriate and expend \$100,000 plus any interest generated from the Land Management Fund for the 2009 Section 6 Grant Properties for the purpose of long-term management.

11. That the Council authorizes the Real Estate Assets Department Director to execute and record conservation easements to ensure the management of the Section 6 Grant properties in perpetuity consistent with the conservation needs of the species for the purposes of this Project.

12. That the Council authorizes the Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
\_\_\_\_\_  
Nina M. Fain  
Deputy City Attorney

NMF:pev  
06/01/09  
Aud.Cert:2900661  
Or.Dept:CP&CI  
R-2009-917

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 23 2009.

ELIZABETH S. MALAND  
City Clerk

By *Anna Richardson*  
Deputy City Clerk

Approved: 6-29-09  
(date)

*JS*  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

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

**CERTIFICATE OF UNALLOTTED BALANCE**

AC 2900661  
ORIGINATING  
DEPT. NO.: 65

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: \$538,000.00 Fund: 10529

Purpose: Authorizing transfer of funds to CIP 374430 and to new Land Management Fund to be setup for the acquisition and maintenance of Wetland property

Date: March 13, 2009 By: James Long  
AUDITOR AND COMPTROLLER'S DEPARTMENT



ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
001	00	10545			9544					\$518,000.00
002	00	10545			9544					20,000.00
TOTAL AMOUNT										\$538,000.00

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

AC 2900661

JUN 23 2009

R-305008