

RESOLUTION NUMBER R- 305028

DATE OF FINAL PASSAGE JUL 02 2009

A RESOLUTION OF THE SAN DIEGO CITY COUNCIL FOR  
CONTRACTS, EXPENDITURES, AND RELATED ACTIONS  
IN CONNECTION WITH STORM DRAIN EMERGENCY  
REPAIRS AT 4020 MURPHY CANYON ROAD.

WHEREAS, the storm drain at 4020 Murphy Canyon Road failed in February 2009 after heavy rains, such that it must be replaced; and

WHEREAS, the failed storm drain has caused extensive flood damage and threatens further damage if not replaced immediately; and

WHEREAS, an emergency was declared for the replacement of the failed storm drain pursuant to Charter section 28 and Municipal Code section 22.3212(c), and the Purchasing Agent notified the President and Members of the City Council by memorandum dated April 2, 2009; and

WHEREAS, to assess the causes of the failure and to engineer the remedial work, it was necessary for the Mayor to enter into an agreement with Harris & Associates Engineers in the form of a Third Amendment to an existing agreement on April 23, 2009; and

WHEREAS, Harris & Associates has proceeded to engineer a replacement project on an emergency basis; and

WHEREAS, the replacement storm drain must also be constructed on an emergency basis and there is insufficient time to rigidly comply with formal competitive bidding for construction and with the Subcontractor Outreach Program; and

WHEREAS, notwithstanding the emergency, there is time for limited competitive solicitation of contractors and for good faith efforts to comply with subcontractor outreach requirements; and

WHEREAS, it is necessary for the Council to ratify the emergency engineering contract and to authorize the letting of the construction contract on an emergency basis; and

WHEREAS, this activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15269(a) as an emergency project; NOW, THEREFORE,

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

1. That in accordance with San Diego City Charter sections 28 and 94, the Council hereby determines and declares that the public interest or necessity demands the immediate expenditure of public money to safeguard life, health, or property, and thereupon may proceed without advertising for bids or receiving same, to expend, or enter into contract(s) involving the expenditure of any sum required in such emergency, on hand in the City Treasury and available for such purpose.

2. That in accordance with City Charter section 28 and Municipal Code section 22.3212(c), the Council hereby ratifies, for and on behalf of the City, the Third Amendment to the Agreement with Harris & Associates regarding the 4141 Ruffin Road Emergency Storm Drain Repair, to include engineering services for the 4020 Murphy Canyon Road Storm Drain Emergency Repair, under the terms and conditions set forth in the Third Amendment, heretofore executed by the Mayor on April 21, 2009 and on file with the City Clerk as Document Number C-14955.

3. That in accordance with City Charter section 94, the Mayor or his designee is authorized to execute, for and on behalf of the City, an emergency construction contract with the lowest responsible bidder following limited competitive solicitation for the 4020 Murphy Canyon Road Storm Drain Emergency Repair Project, in an amount not to exceed \$5,500,000.

4. That due to the emergency, the requirements for advertising, open competitive bidding, and for the Subcontractor Outreach Program are hereby waived for the 4020 Murphy Canyon Road Storm Drain replacement construction contract.

5. That in accordance with the annual appropriation ordinance, the City Comptroller is authorized to amend the Fiscal Year 2009 Capital Improvements Program budget to add CIP 11-318.0, 4020 Murphy Canyon Road Storm Drain Emergency Repair.

6. That the City Comptroller is further authorized to increase the Fiscal Year 2009 Capital Improvements Program budget by an amount not to exceed \$575,725 in CIP 11-318.0, 4020 Murphy Canyon Road Storm Drain Emergency Repair, provided that the Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

7. That the City Comptroller is further authorized to transfer the amount of \$575,725 from the General Fund – Storm Water Department, Fund No. 100, Dept 533, to Fund No. 630221, General Fund Contributions to the CIP, which is encumbered in Auditor's Certificate No. 2900747.

8. That the City Comptroller is further authorized to appropriate and expend an amount not to exceed \$575,725 from Fund No. 630221, General Fund Contributions to the CIP, CIP 11-318.0, 4020 Murphy Canyon Road Storm Drain Emergency Repair

9. That the City Comptroller is further authorized to transfer the amount of \$5,900,000 with Fund No. 32453, Capital Outlay, from CIP 37-068.0, Annual Allocation – City Facilities Improvements, to CIP 11-318.0, 4020 Murphy Canyon Road Storm Drain Emergency Repair.

10. That the City Comptroller is further authorized to appropriate and expend an amount not to exceed \$5,900,000 from Fund No. 32453, Capital Outlay, CIP 11-318.0, 4020 Murphy Canyon Road Storm Drain Emergency Repair, solely and exclusively to provide funds for

design, inspection, construction, and related costs for the emergency repair, provided that the Comptroller furnishes one or more certificates demonstrating that the funds are, or will be, on deposit in the City Treasury.

11. That the City Comptroller is further authorized to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Frederick M. Ortlieb  
Frederick M. Ortlieb  
Deputy City Attorney

FMO:mb  
06/09/09  
Or.Dept:Eng&CP  
R-2009-1234

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

ELIZABETH S. MALAND, City Clerk

By Elizabeth S. Maland  
Deputy City Clerk

Approved: 7-2-09  
(date)

Jerry Sanders  
JERRY SANDERS, Mayor

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

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