

RESOLUTION NUMBER R- 305684
DATE OF FINAL PASSAGE MAR 26 2010

A RESOLUTION AUTHORIZING THE MAYOR TO SECURE FUNDING FOR AN AMOUNT OF \$500,000 FROM THE ENDANGERED SPECIES ACT SECTION SIX GRANT PROGRAM FOR PREPARATION OF A VERNAL POOL HCP; CONDUCT ALL NEGOTIATIONS NECESSARY TO SECURE FUNDING AND TO CARRY OUT ALL OBLIGATIONS OF THE AFOREMENTIONED PROJECT; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO ACCEPT, APPROPRIATE AND EXPEND UP TO \$500,000 IN SECTION SIX GRANT FUNDS; AND AUTHORIZING THE CHIEF FINANCIAL OFFICER TO ESTABLISH A SPECIAL INTEREST-BEARING FUND FOR THE GRANT FUNDS.

WHEREAS, on March 18, 1997, the Council for the City of San Diego approved the Subarea Plan for the Multiple Species Conservation Program [MSCP] (R-288455);
and

WHEREAS, the MSCP program includes coverage for the following seven vernal pool species: San Diego fairy shrimp; Riverside fairy shrimp; Otay mesa mint; California Orcutt grass; San Diego button celery; San Diego mesa mint; and spreading navarretia [seven vernal pool species]; and

WHEREAS, the U.S. Fish and Wildlife Service issued an incidental take permit [ITP] for the City of San Diego's subarea plan under the MSCP on July 18, 1997; and

WHEREAS, on October 13, 2006, in the case of *Center for Biological Diversity et al. v. Bartel* [Case No. 98-CV-2234-B(JMA)], the United States District Court for the Southern District of California issued a Decision and Injunction [Decision] enjoining the City of San Diego's ITP portion of the MSCP for those pending and future development projects that "take" any of the seven vernal pool species, finding that the MSCP provided inadequate coverage for, and unacceptable risks to, the seven vernal pool species, and

stating that Condition I of the City of San Diego's ITP expressly excluded "take" authorization for the seven vernal pool species; and

WHEREAS, the City desires to prepare a new Habitat Conservation Program [HCP] in order to address the Court's concerns about conservation of the seven vernal pool species in San Diego, and to provide sufficient coverage to the seven vernal pool species; and

WHEREAS, the City desires to request that the Court approve an Interim Project Process (for those pending projects that may take any of the seven vernal pool species) while the City prepares a new HCP; and

WHEREAS, on March 24, 2009, the Council for the City of San Diego approved the application to the Endangered Species Act [ESA] Section Six Grant program for funding the City of San Diego Vernal Pool Species Habitat Conservation Plan (R-304745); and

WHEREAS, the City has been awarded Section Six grant funds in the amount of \$500,000; and

WHEREAS, the matter was set for a public hearing, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego that the Mayor or designee is authorized to take all necessary actions to secure the funding of \$500,000 awarded to the City in Section Six grant funds for the vernal pool HCP and carry out all obligations for the aforementioned project; and

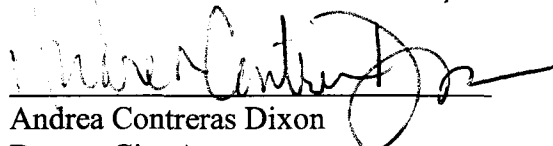
BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to accept, appropriate and expend up to \$500,000 from the ESA Section Six Grant Program for the vernal pool HCP and contingent upon receipt of a fully executed grant agreement; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to establish a special interest-bearing fund for the grant if required; and

BE IT FURTHER RESOLVED, that if the Interim Project Process is not approved by the Court, the City would proceed with the preparation of the Vernal Pool HCP using the approved grant funding.

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Andrea Contreras Dixon
Deputy City Attorney

ACD:cw
02/26/10
Or.Dept:CPCI-Urban Form
R-2010-619
MMS #11634

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I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 16 2010.

ELIZABETH S. MALAND
City Clerk

By *Janet Richards*
Deputy City Clerk

Approved: 3-26-10
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

SAN DIEGO
CITY CLERK
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