

RESOLUTION NUMBER R- 308448

DATE OF FINAL PASSAGE OCT 02 2013

ITEM #S500
SUB-B
9/17/13

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO REGARDING COMPLIANCE WITH RELEVANT COUNCIL POLICIES AS RELATED TO CERTAIN ENCROACHMENTS PROPOSED AS PART OF THE STATE'S CENTRAL COURTHOUSE PROJECT.

WHEREAS, the applicant, the Administrative Office of the Courts (AOC), an agency of the Judicial Council of the State of California, is undertaking the construction of a new State courthouse (Project), planned to be located between West C and West B Streets, and Union and State Streets, in the City of San Diego (City); and

WHEREAS, the Project is subject to State permitting authority, but the AOC has requested permission from the City for the limited portion of the Project that is planned to encroach into the City's public right-of-way in order to construct and maintain a pedestrian bridge over a portion of West C Street, an electrical utility vault under a portion of West B Street, and hardscape and landscape along a portion of the west side of Union Street; and

WHEREAS, the SDMC provides that Council be consulted prior to issuance of certain public right-of-way permits that allow encroachments; the Council Policies applicable to this project, Council Policy 600-16 and 700-18, set forth various criteria intended to guide staff's consideration of applications for certain encroachments that span or run below public right-of-way; and the City has a right to protect the public interest in right-of-way dedicated to the City for public use; and

WHEREAS, the AOC negotiated with the City three agreements to address each of the three encroachments (Encroachment Agreements) and City staff reviewed the proposed terms of such agreements to determine compliance with the relevant Council Policies; and

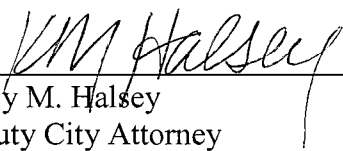
WHEREAS, City staff determined that the Encroachment Agreements demonstrate substantial compliance with the relevant Council Policies such that they adequately protect the City's interests in the public right-of-way at issue, but identified one manner in which the applicant's request may constitute a substantive exception to the standards the City typically applies to encroachment requests; namely, that the Encroachment Agreements do not provide unlimited contractual indemnity to the City for claims and causes of action related to the existence of the encroachments; and

WHEREAS, the AOC informed the City that it may lack the authority to execute such an agreement to indemnify due to restrictions related to Project financing, but the AOC offered an alternative under which it will be required to provide additional insurance coverage assurances to address the City's liability; and

WHEREAS, the Encroachment Agreements specify that the AOC shall maintain policies of liability insurance that name the City as an additional insured and that will protect the City from any potential claims which may arise from the encroachment; specifically, that the AOC will provide a policy applicable to the construction period that will have a liability limit of not less than \$100,000,000 (\$100 million) and that, beginning at the point of occupancy and continuing for the duration of the encroachments, the AOC will either be obligated to provide a policy with a liability limit in an amount of \$5,000,000 (\$5 million) or will enter into an indemnity agreement to address City liability related to the encroachments; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council of the City of San Diego determines, based on the record associated with this request for Council action, that the Encroachment Agreements sufficiently protect the City's interest in the public right-of-way in question and address the City's liability to an acceptable degree under the circumstances pertaining to this Project and further determines that the Applicant has demonstrated adequate compliance with the relevant Council Policies such that staff may continue to process the related public right-of-way permits.

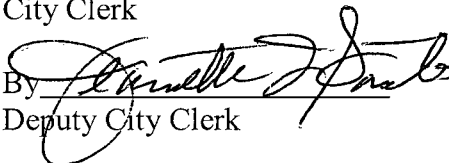
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Keely M. Halsey
Deputy City Attorney

KMH:als
9/13/2013
Or.Dept:DSD
Doc. No.: 632342

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 17 2013

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved pursuant to Charter section 265(i):

(Date)

TODD GLORIA, Council President

Passed by the Council of The City of San Diego on SEP 17 2013, by the following vote:


Councilmembers	Yeas	Nays	Not Present	Recused
Sherrri Lightner	<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"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 02 2013

(Please note: When a resolution is approved by the Council President as interim Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY: TODD GLORIA, COUNCIL PRESIDENT
as interim Mayor of The City of San Diego, California.

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

By , Deputy

Office of the City Clerk, San Diego, California
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