

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 1
FOR THE REGULAR MEETING OF
MONDAY, NOVEMBER 21, 2005 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
ORDINANCES TO BE ADOPTED:

ITEM-S400: Third Amendment to Agreement with McGraw/Baldwin Architects for Consultant Services for the College/Rolando Library.

(College Community Area. District 7.)

(Continued from the meeting of November 14, 2005, Item 55, at the request of the City Manager, to meet the noticing requirements.)

CITY COUNCIL’S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/31/2005, Item 60. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant):

(O-2006-46)

Authorizing the City Manager to execute the Third Amendment to the Agreement with McGraw/Baldwin Architects for professional services required for the construction of the College Rolando Library, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$47,793 from CIP-35-071.0, College/Rolando Branch Library, Fund No. 30244, Dept. No. 30244, Org. No. 106, to provide funding for the Third Amendment to the Agreement for the College/Rolando Library;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility this activity will result in a direct or reasonably foreseeable indirect physical change in the environment.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-S401: Third Amended and Restated Lease Agreement with Brown Field Aviation Ventures (BFAV) for Aviation-Related Uses and General Office Use.

(Otay Mesa Community Area. District 8.)

(Continued from the meeting of November 14, 2005, Item 104, at the request of the City Manager, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-408)

Authorizing the City Manager to execute, for and on behalf of City, a 35-year Third Amended and Restated Lease Agreement with Brown Field Aviation Ventures (BFAV), for the term beginning on December 1, 1996, and ending on November 30, 2031, with two 10-year options to extend, for the purpose of aviation-related uses and general office use pursuant to a Settlement and Release Agreement dated October 3, 2005, between the City and BFAV, under the terms and conditions set forth in the lease agreement;

Waiving Council Policy 700-41, regarding the use of the RFP process for the lease of City-owned land, as the Council Policy does not apply to the amended and restated lease because it is being executed pursuant to a Settlement and Release Agreement.

CITY MANAGER SUPPORTING INFORMATION:

In 1996, the City and Brown Field Aviation Ventures ("BFAV") entered into a long-term, flat-rate lease for approximately 15 acres, including 15,733 square feet of office space, at Brown Field Airport in Otay Mesa. The lease has been amended twice to reflect changes in the leasehold premises. In 1999, a portion of the premises was assigned to a third party. The City approved a sublease of the entire premises to Lancair Corp. in 2001.

Subsequently, a dispute arose among the parties regarding use and subleasing of the premises, including non-aviation uses. On August 9, 2005, Council approved a Settlement and Release Agreement in closed session. The Settlement and Release Agreement was executed by BFAV, Lancair, and the City on October 3, 2005.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-S401: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

Pursuant to the Settlement and Release Agreement, the City and BFAV have amended and restated the existing lease to (i) add to and delete from the property being leased, (ii) clarify the use of the office building at 1590 Continental, (iii) cap the scheduled 2006 market rate rent adjustment at 20%, (iv) waive fees for assignment of the lease to Lancair, (v) provide terms for extension of the lease term, (vi) provide for a right of first refusal upon expiration of the lease, and (vii) update the parties' development obligations.

The terms of the proposed amended and restated lease are as follows:

USE: Aviation uses as defined in Section 1.2a of the lease and general office use for fair market rent at 1590 Continental Street.

TERM: 35 years, with two 10-year options to extend, commencing 12/1/96 and ending 11/30/2031.

RENT: The initial rent of approximately \$91,212 per year will be adjusted in 2006, 2016 and 2026 to reflect market conditions and CPI adjustments will occur in 2011 and 2021, with additional adjustments during the extension terms, if any.

FISCAL IMPACT:

Initial annual rent of approximately \$91,212 will be deposited into the Airports Enterprise Fund.

Mendes/Gardner/Griffith/CLY

Staff: Jack Farris – (619) 236-5548
Carrie L. Gleeson – Chief Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-S402: Agreement with Dominy & Associates Architects for Consulting Services for the San Carlos Branch Library.

(See memorandum from Afshin Oskoui dated 10/28/2005. Navajo Community Area. District 7.)

(Continued from the meetings of October 31, 2005, Item 105, and November 14, 2005, Item 200, last continued at the request of the City Manager, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-339 Rev.)

Authorizing the City Manager to execute a phase funded agreement with Dominy & Associates, for professional design services for the San Carlos Branch Library (Project), CIP-35-088.0, in an amount not to exceed \$214,292 for Phase I, \$126,700 for Phase II, and \$83,957 for Phase III, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this Project and agreement;

Authorizing a \$200,000 increase in the Fiscal Year 2006 Capital Improvement Program Budget in CIP-35-088.0, San Carlos Library, in Fund No. 79506, Navajo DIF;

Authorizing the City Auditor and Comptroller to appropriate and expend \$200,000 from Fund No. 79506, Navajo DIF Fund, into CIP-35-088.0, San Carlos Library, for the purpose of providing funding for the project and related costs, provided that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$424,949 from CIP-35-088.0, San Carlos Library, Fund No. 30244, Capital Improvement Program Construction Fund, solely and exclusively, for the purpose of providing Project funds, provided that the City Auditor and Comptroller furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Declaring this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15262, as this activity involves only the funding of a planning study which will encompass the consideration of environmental factors prior to approval, adoption or funding of any future action;

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-S402: (Continued)

Subitem-A: (Continued)

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

Subitem-B: (R-2006-516)

Declaring that the City Council determines that all the foregoing recitals are true and correct;

Declaring that in accordance with Section 1.150-2 of the Treasury Regulations, the Issuer declares its intention to issue Debt in a principal amount not to exceed \$191 million in accordance with the 2002 financing plan, the proceeds of which will be used to pay for the costs of the Project (and related issuance costs), including the reimbursement to the Issuer for certain capital expenditures relating to the Project made prior to the issuance of the Debt;

Declaring that the amount transferred from the Navajo DIP Fund to the San Carlos Branch Library and used to fund the Project and related costs, will be deemed reimbursable under this Resolution.

CITY MANAGER SUPPORTING INFORMATION:

The proposed agreement with Architects Dominy & Associates will provide the professional design services required for preparation of bridging documents and construction support services for a new 25,000 sq. ft. San Carlos Library. The existing 8,200 sq. ft. library, located at 7265 Jackson Dr., is too small to provide adequate library services, such as meeting rooms, computer lab, adequate seating and space for books and multimedia items. The proposed new library will be built on the current library site and adjacent property. These funds became available after the added allocation of \$200,000 DIF Fund No. 79506.

In conformance with Council Policy 300-7, ten (10) architectural firms were interviewed for design services for the proposed reconstruction and expansion of the San Carlos Branch Library, and Dominy & Associates were selected to provide the required design services. On January 27, 2004, the City entered into a purchase order agreement for schematic design in an amount of \$24,999. The proposed agreement with the Architect is a phased contract with Phase I providing the professional design services required to prepare schematic drawings, permit processing and bridging documents. Phase II will provide for the completion of the bridging documents and Phase III, once funded, will provide construction support services for the San Carlos Branch Library. The current schedule anticipates construction funding becoming available in FY 2007/2008. In the event that this construction is delayed, the construction budget being developed with this contract may need to be adjusted to reflect construction cost escalations. If the scope of the project is revised or the project is not implemented, the work product developed through this action or related prior authorizations may not have other transferable uses/applications.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)
RESOLUTIONS: (Continued)

ITEM-S402: (Continued)

FISCAL IMPACT:

The total consultant's fee for professional services authorized for this work is \$449,948 which includes \$24,999 already paid under the January 2004 purchase order, \$214,292 is for Phase I, \$126,700 is for Phase II, and \$83,957 is for Phase III. This agreement will be phase funded with \$340,992 being available in CIP-35-088.0, San Carlos Branch Library, Fund No. 30244, Dept. No. 30244, Org. No. 106 for Phase I (\$214,292) & Phase II (\$126,700). \$73,300 will be retained for preliminary engineering, environmental review, and permits. These funds became available after the added allocation of \$200,000 DIF Fund No. 79506.

Gardner/Boekamp/AO

Aud. Cert. 2600267.

Staff: Afshin Oskoui - (619) 533-3102
Christina L. Bellows – Deputy City Attorney