

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, JUNE 24, 2008 AT 10:00 A.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

NOTE: The public portion of the meeting will begin at 10:00 a.m. The City Council will meet in Closed Session this morning from 9:00 a.m. – 10:00 a.m. Copies of the Closed Session agenda are available in the Office of the City Clerk.

OTHER LEGISLATIVE MEETINGS

A Special Meeting of the **SAN DIEGO REDEVELOPMENT AGENCY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Redevelopment Agency Secretary at (619) 236-6256. Internet access to the agenda is available at:
<http://www.sandiego.gov/redevelopment-agency/index.shtml>

The **SAN DIEGO HOUSING AUTHORITY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Housing Authority Secretary at (619) 578-7552. Internet access to the agenda is available at:
<http://sdhc.net/AuthorityAgenMinRpts.shtml>

ITEM-300:

ROLL CALL.

=== LEGISLATIVE SCHEDULE ===

Special Orders of Business

ITEM-30: San Diego International Triathlon Day.
COUNCILMEMBER FAULCONER'S RECOMMENDATION: Adopt the resolution.

ITEM-31: Don Telford Day.
COUNCILMEMBER ATKINS' RECOMMENDATION: Adopt the resolution.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUESTS FOR CONTINUANCE

The Council will consider requests for continuance in the morning or afternoon, based on when the item was noticed to be heard.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items

- ITEM-50: Second Amendment to Agreement with Malcolm Pirnie, Inc. and Third Amendment to Agreement with CH2M Hill, Inc. for Various Water Projects. (Navajo, Mission Trails Regional Park, Mid-City, and College Community Areas. Districts 3 and 7.)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which was introduced on 6/10/2008, Item 52.
NOTE: 6 votes required pursuant to City Charter Section 99.
- ITEM-51: Inviting Bids for Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon (Bridge No. 57C-416) and Third Amendment to Agreement with T.Y. Lin International. (Uptown Community Area. District 2.)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which was introduced on 6/10/2008, Item 53.
NOTE: 6 votes required pursuant to Section 99 of the City Charter.
- ITEM-52: Fifth Amendments to Professional Services Agreements with Intera, Inc. and Opper & Varco, LLP Related to Groundwater Contamination Clean-up at Qualcomm Stadium. (Mission Valley Community Area. District 6.)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinances which were introduced on 6/10/2008, Item 60, Subitems A and B.
NOTE: 6 votes required pursuant to Section 99 of the City Charter.
- ITEM-60: Two actions related to Maintenance Agreement with California State Coastal Conservancy and the Los Peñasquitos Lagoon Foundation for a Sediment Control Basin in Los Peñasquitos Canyon. (Los Peñasquitos Canyon Preserve Community Area. District 1.)
STAFF'S RECOMMENDATION: Introduce the ordinance in Subitem A and adopt the resolution in Subitem B.
NOTE: 6 votes required pursuant to Section 99 of the City Charter.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Adoption Agenda, Consent Items (Continued)

- ITEM-100: First Amendment to Agreement with MWH Americas, Inc. for Implementation of the San Pasqual Basin Groundwater Management Plan. (San Pasqual Community Area. District 5.)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 4/23/2008, NR&C voted 4 to 0 to approve.
- ITEM-101: Amendment No. 4 to Agreement with ADS LLC for Sewer Flow Monitoring and Event Notification. (Citywide.)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 5/28/2008, NR&C voted 4 to 0 to approve.
- ITEM-102: Agreement with United States Geological Survey (USGS) for Cooperative Hydrogeologic Investigations.
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 4/23/2008, NR&C voted 4 to 0 to approve.
- ITEM-103: California Center for Sustainable Energy (CCSE) Customer Service Agreement. (Citywide.)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 5/28/2008, NR&C voted 4 to 0 to approve.
- ITEM-104: Third Amendment to Agreement with RBF Consulting Group to Provide Additional Professional Services for the Aldine Drive Slope Stabilization Project. (Kensington-Talmadge Community Area. District 3.)
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-105: Agreement with Bird Rock Development Corporation for the Administration of Contracts for Goods and Services in the Bird Rock Maintenance Assessment District for Fiscal Year 2009. (La Jolla Community Area. District 1.)
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-106: Pre-Employment and Department of Motor Vehicles Medical Examinations and Drug Testing.
PERSONNEL DIRECTOR'S RECOMMENDATION: Adopt the resolution.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Adoption Agenda, Consent Items (Continued)

- ITEM-107: First Amendment to Restated Lease Agreement with Old Globe Theatre. (Balboa Park Community Area. District 3.)
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-108: Establishing the Oak Park Banner District. (Oak Park Community Area. District 4.)
COUNCILMEMBER YOUNG'S RECOMMENDATION: Adopt the resolution.
- ITEM-109: Settlement with Travelers Insurance on Environmental Claim under Policy Number GU2829120. (Barrio Logan Community Area. District 8.)
CITY ATTORNEY'S RECOMMENDATION: Adopt the resolution.
- ITEM-110: Settlement of Litigation Entitled Jaime Limon vs. David Lamont Williams, Allied Gardens Towing Inc., Road One West, et al.
CITY ATTORNEY'S RECOMMENDATION: Adopt the resolution.
- ITEM-111: Jess Durfee Day.
COUNCILMEMBER ATKINS' RECOMMENDATION: Adopt the resolution.
- ITEM-112: Protection and Advocacy Incorporated Day.
COUNCILMEMBER HUESO'S RECOMMENDATION: Adopt the resolution.
- ITEM-113: Declaring a Continued State of Emergency Regarding the Wildfires.
TODAY'S ACTION IS: Adopt the resolution.
- ITEM-114: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.
TODAY'S ACTION IS: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items (Continued)

ITEM-115: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)
TODAY'S ACTION IS: Adopt the resolution.

ITEM-116: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.
TODAY'S ACTION IS: Adopt the resolution.

Adoption Agenda, Discussion, Other Legislative Items

NOTE: This item may be taken in the morning session if time permits.

ITEM-330: Soledad Mountain Road Emergency Repair. (La Jolla Community Area. District 2.)
STAFF'S RECOMMENDATION: Adopt the resolution.

NOTE: This item may be taken in the morning session if time permits.

ITEM-331: Settlement of All Pending Claims by the Mt. Soledad Memorial Association, Inc.
CITY ATTORNEY'S RECOMMENDATION: Adopt the resolution.

Noticed Hearings, Discussion

The following items will be considered in the morning session which is scheduled to begin at 10:00 a.m.

ITEM-332: Modification of North Park Business Improvement District. The levying of assessments on businesses and the modification to the North Park Business Improvement District FY2009 Budget Report. (North Park Community Plan Area. District 3.)
STAFF'S RECOMMENDATION: Hold public meeting and permit testimony in support of or in opposition to the modification of the District.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT

=== EXPANDED CITY COUNCIL AGENDA ===

SPECIAL ORDERS OF BUSINESS

ITEM-30: San Diego International Triathlon Day.

[?View referenced exhibit back-up material.](#)

COUNCILMEMBER FAULCONER'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-993)

Recognizing the San Diego International Triathlon on the occasion of its 25th anniversary, and congratulating Rick Kozlowski and Father Joe Carroll in creating this unique event, and proclaiming June 29, 2008, as "San Diego International Triathlon Day" in the City of San Diego.

ITEM-31: Don Telford Day.

[?View referenced exhibit back-up material.](#)

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-1082)

Commending Don Telford for his contributions to the City of San Diego and its most esteemed theaters;

Proclaiming June 24, 2008, to be "Don Telford Day" in the City of San Diego.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUESTS FOR CONTINUANCE

The Council will consider requests for continuance in the morning or afternoon, based on when the item was noticed to be heard.

ADOPTION AGENDA, CONSENT ITEMS

The following listed items are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (*). Because these items may be handled quickly, if you wish to be heard submit your Request to Speak form prior to or at 10:00 a.m.

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION:

Items 50, 51, and 52.

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:

Item 60.

RESOLUTIONS TO BE ADOPTED:

Items 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, and 116.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION:

- * ITEM-50: Second Amendment to Agreement with Malcolm Pirnie, Inc. and Third Amendment to Agreement with CH2M Hill, Inc. for Various Water Projects. (Navajo, Mission Trails Regional Park, Mid-City, and College Community Areas. Districts 3 and 7.)

[?View referenced exhibit back-up material.](#)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 6/10/2008, Item 52. (Council voted 7-0. Council President Pro Tem Madaffer not present):

(O-2008-125)

Authorizing the Mayor, for and on behalf of the City, to execute a phase-funded Second Amendment to the Agreement with Malcolm Pirnie, Inc., for design and construction support services in CIP-73-261.3, Alvarado Water Treatment Plant-Upgrade and Expansion (Phase IV Ozone Improvements and Phase III Rehabilitation of Basins 1 & 2) in the amount not to exceed \$5,183,696, under the terms and conditions set forth in the Agreement;

Declaring that funding for the phase funded Second Amendment to the Agreement with Malcolm Pirnie, Inc., shall be allocated as follows: Phase 7 (FY08) = \$1,100,000; Phase 8 (FY09) = \$2,100,000; Phase 9 (FY10) = \$1,983,696. The execution of these phases shall be performed by the Mayor, or his designee, contingent upon City Council approval of the Project in the Water Department's budget for the above fiscal years, and contingent upon the City Auditor and Comptroller furnishing one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the Mayor, for and on behalf of the City, to execute a phase-funded Third Amendment to the Agreement with CH2M Hill, Inc., for construction management services in CIP-73-261.3, Alvarado Water Treatment Plant-Upgrade and Expansion (Phase IV Ozone Improvements and Phase III Rehabilitation of Basins 1 & 2) in the amount not to exceed \$6,433,716 and in CIP-73-314.0, San Diego 17 Flow Control Facility and Pump Station in the amount not to exceed \$969,607, for a total amount of \$7,403,323, under the terms and conditions set forth in the Agreement;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION: (Continued)

* ITEM-50: (Continued)

Declaring that funding for the phase funded Third Amendment to the Agreement with CH2M Hill, Inc., shall be allocated as follows: Phase 6 (FY08) = \$2,207,000; Phase 7 (FY09) = \$3,927,000; Phase 8 (FY10) = \$1,348,521; Phase 9 (FY11) = \$100,000. The execution of these phases shall be performed by the Mayor, or his designee, contingent upon City Council approval of the Project in the Water Department's budget for the above fiscal years, and contingent upon the City Auditor and Comptroller furnishing one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of \$3,785,529 from CIP-73-261.3, Alvarado Water Treatment Plant-Upgrade and Expansion (Phase III Rehabilitation of Basins 1 & 2), Fund No. 41500, Water, for the purpose of executing these agreements, contingent upon the City Auditor and Comptroller furnishing one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Declaring that the expenditure of \$969,607 from CIP-73-314.0, San Diego 17 Flow Control Facility and Pump Station, Fund No. 41500, Water, for the purpose of executing the CH2M Hill, Inc., agreement, contingent upon the City Auditor and Comptroller furnishing one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing FY08-Phase 7 in the amount of \$1,100,000 with Malcolm Pirnie, Inc., for Alvarado Water Treatment Plant-Upgrade and Expansion (Phase IV Ozone Improvements and Phase III Rehabilitation of Basins 1 & 2). The execution of these phases shall be performed by the Mayor, or his designee, contingent upon City Council approval of the Project in the Water Department's budget for the above fiscal years, and contingent upon the City Auditor and Comptroller furnishing one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing FY08-Phase 6 in the amount of \$2,027,469 with CH2M Hill, Inc., for Alvarado Water Treatment Plant-Upgrade and Expansion (Phase IV Ozone Improvements and Phase III Rehabilitation of Basins 1 & 2) and San Diego 17 Flow Control Facility and Pump Station;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION: (Continued)

* ITEM-50: (Continued)

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

Declaring that this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15378(c). This activity is a subsequent discretionary approval covered under LDR No. 40-0259, Addendum to EIR No. 88-0459, Alvarado Water Filtration Plant Expansion and Rehabilitation. The activity is adequately addressed in the environmental document and there is no change in circumstances, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15177;

Declaring that this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15378(c). This activity is a subsequent discretionary approval covered under Negative Declaration (No. 104515, Final Report dated November 22, 2006), San Diego 17 Pump Station/22 Flow Control Facility Project. The activity is adequately addressed in the environmental document and there is no change in circumstances, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

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

Aud. Certs. 2800775 and 2800776.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION: (Continued)

- * ITEM-51: Inviting Bids for Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon (Bridge No. 57C-416) and Third Amendment to Agreement with T.Y. Lin International. (Uptown Community Area. District 2.)

[?View referenced exhibit back-up material.](#)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 6/10/2008, Item 53. (Council voted 7-0. Council President Pro Tem Madaffer not present):

(O-2008-156)

Authorizing the Mayor, or designee, for and on behalf of the City, to make an application to CALTRANS to secure funding in the amount of \$10,492,572 of which \$5,388,359 is from the Highway Bridge Program (HBP-Seismic) and \$4,406,094 is from the Highway Bridge Program (HBP-Paint), and \$698,119 is from Prop 1B Bond funds, Local Seismic Safety Retrofit Program (LSSRP), for the construction, construction engineering, and contingency of the Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon, CIP-52-554.0 (Project);

Authorizing the Mayor, or designee, to take all necessary actions to secure funds from CALTRANS for the Project;

Authorizing the Mayor, or designee, to accept grant funds, in the amount of \$10,492,572 for the Project;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend funds if the grant funding is secured;

Authorizing the City Auditor and Comptroller to establish three special interest-bearing funds for the HBP-Seismic, HBP-Paint, and LSSRP funds, contingent upon receipt of fully executed grant agreements;

Amending Fiscal Year 2008 Capital Improvements Program Budget by increasing CIP-52-554.0 by \$10,492,572, contingent upon receipt of a fully executed grant agreement;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION: (Continued)

* ITEM-51: (Continued)

Authorizing the expenditure of an amount not to exceed \$10,492,572 from CIP-52-554.0, Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon, of which \$5,388,359 is from the Highway Bridge Program (HBP-Seismic) and \$4,406,094 is from the Highway Bridge Program (HBP-Paint), and \$698,119 is from Prop 1B Bond funds, Local Seismic Safety Retrofit Program (LSSRP) for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Approving the plans and specifications for the construction of Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon (Project), on Work Order No. 112289;

Authorizing the Mayor, after advertising for bids in accordance with the law, to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$13,067,952, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the Mayor to execute, for and on behalf of the City, a Third Amendment to the Agreement with T.Y. Lin International, for construction support in CIP-52-554.0, Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$291,730 from CIP-52-554.0, Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon, contingent upon the City Auditor and Comptroller first certifying that funds are available, for the purpose of executing the Third Amendment to the Agreement for the above referenced Project;

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

Declaring that the City of San Diego as Lead Agency under CEQA has reviewed and considered the final MND No. 100484, dated April 18, 2007, prior to approving the project. (BID-K083728)

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

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION: (Continued)

- * ITEM-52: Fifth Amendments to Professional Services Agreements with Intera, Inc. and Oppen & Varco, LLP Related to Groundwater Contamination Clean-up at Qualcomm Stadium. (Mission Valley Community Area. District 6.)

[?View referenced exhibit back-up material.](#)

(See City Attorney Report dated 5/23/2008.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinances which were introduced on 6/10/2008, Item 60, Subitems A and B. (Council voted 7-0. Council President Pro Tem Madaffer not present):

Subitem-A: (O-2008-153)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, the Fifth Amendment to Agreement between the City of San Diego and Intera, Inc. for Consulting Services (Fifth Amendment) regarding cleanup of the contaminated soil and groundwater underlying the Qualcomm Stadium property including, but not limited to, preparation of further documentation for the Water Board, under the terms and conditions set forth in the Fifth Amendment;

Authorizing the expenditure of an amount not to exceed \$200,000 from Water Department Fiscal Year 2008 Operating Budget, Fund No. 41500, Org. 8320, solely and exclusively, to provide funds for the above Fifth Amendment, provided that the City Auditor and Comptroller furnishes a certificate demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department;

Declaring that the above activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15262 because the activity involves feasibility and planning studies for future action by the City.

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

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION: (Continued)

* ITEM-52: (Continued)

Subitem-B: (O-2008-154)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, the Fifth Amendment to Agreement between the City of San Diego and Opper & Varco, LLP for Legal Services (Fifth Amendment) for environmental legal services, including representation before the Water Board, in connection with the cleanup of contaminated soil and groundwater underlying the Qualcomm Stadium property, under the terms and conditions set forth in the Fifth Amendment;

Declaring that the above activity is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15262 because the activity involves feasibility and planning studies for future action by the City.

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

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:

- * ITEM-60: Two actions related to Maintenance Agreement with California State Coastal Conservancy and the Los Peñasquitos Lagoon Foundation for a Sediment Control Basin in Los Peñasquitos Canyon. (Los Peñasquitos Canyon Preserve Community Area. District 1.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Introduce the following ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2008-75 Cor. Copy)

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City, an Agreement with the California State Coastal Conservancy and the Los Peñasquitos Lagoon Foundation for the operation and maintenance of a sediment control basin in Los Peñasquitos Canyon, under the terms and conditions set forth in the Agreement;

Declaring that this activity is covered under the Los Peñasquitos Lagoon Mitigated Negative Declaration, dated April 12, 2006. That this activity is adequately addressed in the environmental document and that there is no change in circumstance, additional information, or project changes to warrant additional review. Therefore, this activity is not a separate project for purposes of California Environmental Quality Act (CEQA) review pursuant to State CEQA Guidelines Section 15060(c)(3).

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

Subitem-B: (R-2008-1091)

Authorizing the Mayor to execute an Agreement between the City of San Diego and the Los Peñasquitos Lagoon Foundation specifying the terms for the construction of a sediment basin by the Los Peñasquitos Lagoon Foundation in the Los Peñasquitos Canyon Preserve, under the terms set forth in the Agreement;

Declaring that this activity is covered under Project No. 47248, Los Peñasquitos Lagoon Basin. That this activity is adequately addressed in the environmental document and that there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, this activity is not a project for the purposes of California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:
(Continued)

* ITEM-60: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Sediment-laden storm water and urban runoff from large areas within the Peñasquitos watershed are currently conveyed by Los Peñasquitos Creek through the Los Peñasquitos Canyon Preserve. The General Services Department is currently mandated to remove sediment deposited by the Los Peñasquitos Sorrento and Carroll creeks at an existing sediment basin downstream of the confluence of these creeks. Absent this removal, the sediment would be deposited in Los Peñasquitos Lagoon.

This project has been proposed by the Los Peñasquitos Lagoon Foundation (LPLF) and the California Coastal Conservancy and would build a new sediment control basin in the Los Peñasquitos Canyon Preserve. The proposed agreement with the LPLF and the Conservancy would require LPLF to build the sediment basin and the City to maintain it. Specifically, the agreement makes the LPLF responsible for permitting costs, construction costs, and the mitigation costs from existing and/or amended permits. The agreement makes the City liable for maintenance pursuant to the Maintenance Plan attached to the agreement. The LPLF has agreed to obtain appropriate bonds and insurance for the project. Required maintenance includes sediment removal, annual vegetation removal, trash removal, and maintenance and repair of structures (brow ditch and related appurtenances).

The LPLF has obtained grants from the Conservancy and the Regional Water Quality Control Board to cover its costs. The LPLF has secured all resource agency permits and approvals for the project. A City-issued grading permit is still required.

FISCAL IMPACT:

The Engineering and Capital Projects (ECP) Department has prepared a cost estimate for implementation of the Maintenance Plan. The estimated annual maintenance cost (to be borne by the General Services Department, Streets Division, Fund 100, Department 534) will vary, up to \$274,550. The project has the potential to reduce the current cost of removing the sedimentation from the existing, downstream basin in Sorrento Creek. The Park and Recreation Department would be required to annually remove vegetation from the new basin. The ECP estimate puts the cost of annual vegetation removal at \$20,000; however, it is envisioned this cost can be offset by volunteer efforts.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:
(Continued)

* ITEM-60: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Staff supports the agreement as provided in that it allows for mission flexibility, does not increase City permitting requirements or responsibilities, and the new sedimentation basin has potential downstream environmental benefits for the City.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

As the project sponsor, the LPLF has conducted outreach to interested stakeholder groups.

STAKEHOLDERS AND PROJECTED IMPACTS:

The State Coastal Conservancy and California State Parks Department are supportive of this project and expect positive impacts as a result.

LoMedico/Heap

Staff: Joshua Garcia - (619) 533-6713
Shannon Thomas - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- * ITEM-100: First Amendment to Agreement with MWH Americas, Inc. for Implementation of the San Pasqual Basin Groundwater Management Plan. (San Pasqual Community Area. District 5.)

[?View referenced exhibit back-up material.](#)

(See Water Department's 4/11/2008 Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1126)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a First Amendment to the existing Consulting Agreement with MWH Americas, Inc. (First Amendment), for the purpose of extending the term of the Agreement for an additional thirty-six and one-half months for ongoing analyses and support for the San Pasqual Basin Groundwater Management Plan for an additional amount not to exceed \$250,000, available in Water Fund 41500, Organization 8230;

Authorizing the expenditure of an amount not to exceed \$250,000 from Water Fund 41500, Organization 8230, solely and exclusively, for the purpose of providing funds for the abovementioned Consulting Agreement, its Amendments and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15262.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

Council Policy 600-45 requires development of a GMP in order to protect the groundwater resources within the San Pasqual Basin. This 4,540 acre basin is located in the northern portion of the City of San Diego between the City of Escondido to the north and the community of Rancho Bernardo to the south. The basin is within the San Dieguito River watershed with Lake Hodges downstream to the west and Sutherland Reservoir upstream to the east. The City Water Department owns most of the land in the San Pasqual Valley. This land is leased primarily for agricultural purposes. Groundwater has historically been used for irrigation.

The Water Department is presently studying water supply opportunities in the basin such as brackish groundwater desalination and conjunctive use storage and recovery of imported water. The brackish groundwater desalination component would consist of extracting and desalinating native groundwater via reverse osmosis (RO) treatment for potable uses. The conjunctive use concept would recharge imported water to the aquifer during periods of high availability and less expensive supply, for recovery during dry periods or emergency conditions.

A GMP is a document that outlines a coordinated strategy for administration, operation, and monitoring of a groundwater basin. It is important because it helps ensure the quality, production and storage, and long-term sustainability of the groundwater resource. The San Pasqual GMP was adopted by City Council on November 20, 2007 (R-303177). Professional Services are required to implement elements and recommendations from the GMP. MWH has the technical expertise, knowledge of the San Pasqual Basin and the stakeholders to assist the Water Department with GMP implementation tasks.

Specialized services MWH will provide include:

- Well monitoring and groundwater basin analysis
- Resource protection and best management practices for agriculture leases
- Estimate groundwater use and develop water rates
- General technical assistance

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

SUPPORTING INFORMATION: (Continued)EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation: Sent to EOC May 1, 2008 (EOC will attach analysis memorandum)

FISCAL CONSIDERATIONS:

The amendment total not-to-exceed amount is \$250,000 for a total contract amount of \$550,000. This amendment will be funded from Water Department FY 2008 Operating Budget, Water Fund 41500, Org. 8320.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

December 9, 2002, the City of San Diego adopted the Long-Range Water Resources Plan (LRWRP) by Resolution R-2003-657 in which the San Pasqual Basin was identified as a potential groundwater supply. On August 4, 2004, the Land Use and Housing Committee voted 4-0 to direct the City Manager to start work on Directive 1 of the San Pasqual Valley Vision Plan to comprehensively protect the water, agricultural, biological and cultural resources within the San Pasqual Valley.

Directive 1 calls for the City Manager to prepare a Council Policy that reinforces the goals of the Vision Plan. On May 4, 2005, the Natural Resources and Culture Committee voted 4-0 to support the Manager's Recommendation that the City Council adopt the Draft Council Policy. The Council adopted Policy 600-45 (R-300588) on June 27, 2005, by unanimous vote. On May 16, 2006, the Council adopted (R-301447) approving the Consultant Agreement with MWH Americas, Inc. for the Preparation of a San Pasqual Basin Groundwater Management Plan. Subsequently, on November 20, 2007, the Council adopted the GMP (R-303177). On April 23, 2008, the NR&C approved the First Amendment Agreement with MWH Americas, Inc, for implementation of the San Pasqual GMP increasing the funding amount by \$250,000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Water Department has been actively involved in the San Pasqual/Lake Hodges Planning Group. The Council held a public hearing and adopted a Resolution of Intention including a Statement of Public Participation to prepare a GMP on October 10, 2006. As part of the GMP preparation, the City conducted regular stakeholder meetings consistent with the San Pasqual Valley Vision Plan.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

SUPPORTING INFORMATION: (Continued)

In addition, in order to develop a GMP per State Guidelines the City conducted a public hearing in order to consider public concerns. Also, the City held a second public hearing after the Plan was prepared on whether to adopt the Plan.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Stakeholders include the San Pasqual/Lake Hodges Community Planning Board, Rancho Bernardo Chamber of Commerce, Rancho Bernardo Community Planning Board, San Diego County Farm Bureau, San Dieguito River Park Citizens Advisory Board, San Diego Wild Animal Park, and City lessees who practice agriculture within the Valley. Implementation of the Groundwater Management Plan addresses agriculture Best Management Practices, groundwater recharge-extraction issues, groundwater quality, and habitat management.

Ruiz/Barrett

Aud. Cert. 2800815.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: Amendment No. 4 to Agreement with ADS LLC for Sewer Flow Monitoring and Event Notification. (Citywide.)

[?View referenced exhibit back-up material.](#)

(See Metropolitan Wastewater Department's 4/4/2008 Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1104)

Authorizing the Mayor to execute, on behalf of the City, Amendment No. 4 to the ADS Agreement, as amended, to increase the amount of the agreement, revise the phase funding, and to extend the term of the agreement to a total duration of 60 months;

Amending Phases 1-5 of the agreement to reflect actual expenditures as follows:

- Phases 1-3 \$1,574,619.05
- Phase 4 \$1,243,755.46
- Phase 5 \$301,556.50

Authorizing the expenditure of the unexpended funds from Phases 1-5 of the Agreement in the amount of \$709,962.99 and an additional \$737,583 for a total of \$1,447,545.99, solely and exclusively, to provide funds for the Agreement, to be expended as follows:

- Phase 6 \$748,881.99 from Fund 41506
 \$61,564.00 from Fund 41508
 \$637,100.00 from Fund 41509
- Total \$1,447,545.99

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

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: (Continued)

Declaring this activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines 15060(c)(3).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 5/28/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

On June 28, 2005, the City entered into an Agreement in the amount of \$3,829,894 (the original of which is on file in the Office of the City Clerk as Document No. RR-300612) with ADS LLC (formerly ADS Corporation) (the Contractor) for the Sewer Flow Monitoring and Event Notification Equipment, Software, and Service Project.

On July 11, 2006, the City and the Contractor entered into a no cost Amendment No. 1 to the Agreement (Document No. C-13854), reallocating the Phase Funding Schedule.

On May 10, 2007, the City and the Contractor entered into a no cost Amendment No. 2 to the Agreement (Document No. C-14194), reducing the Performance & Payment Bond.

On August 15, 2007, the City and the Contractor entered into Amendment No. 3 to the Agreement (Document No. C-14288), extending the term to an additional 12 months and adding Phase 6 in the amount of \$947,200.

The Metropolitan Wastewater Department (MWWD) currently monitors sewage flows at 157 permanent meter sites. The information from these sites is used for Metro Sewerage System billing, sewer modeling to evaluate present and future sewer flows, and monitoring flow anomalies which can indicate wastewater back up or overflows to prevent sewer spills. ADS LLC provides sewer flow monitors, installation, repair and maintenance services for billing/modeling data and event notification alarming based on detection of anomalies in sewer flows which indicate potential sewer back-ups or overflows.

The City and Contractor mutually agree to further amend the Agreement to extend the duration of the Agreement for another 18 months from 42 months to 60 months and to increase the Agreement funding by \$737,583 from \$4,777,094 to \$5,514,677 and revise Exhibit C - Schedule of Fees/Phase Funding Schedule.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: (Continued)

SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

This Amendment No. 4 will decrease the prior Phases 1 thru 5 by \$709,962.99, to make each Phase amount equal actual expenditures, and increase Phase 6 by \$1,447,545.99, for a net increase to the contract amount of \$737,583. Funds are available in the amount of \$1,447,545.99, in Sewer Operating Funds 41506, 41508, and 41509.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

R-300612 June 28, 2005.

This action was reviewed and approved by the Natural Resources and Culture Committee on May 28, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

ADS LLC

Sasaki/Barrett

Aud. Cert. 2800812.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-102: Agreement with United States Geological Survey (USGS) for Cooperative Hydrogeologic Investigations.

[?View referenced exhibit back-up material.](#)

(See Water Department's 4/11/2008 Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1125)

Authorizing the Mayor, or his designee, to execute a two-year agreement by and between the City and the United States Geological Survey (USGS) for an amount not to exceed \$500,000 for the purpose of drilling three monitoring wells and performing hydrogeologic investigations in various San Diego groundwater basins (Project);

Authorizing the expenditure of an amount not to exceed \$500,000 from the Water Department FY 2008 Operating Budget, Water Fund 41500, Org. 8320, for Project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines Section 15262.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-102: (Continued)

SUPPORTING INFORMATION:

The City of San Diego Long-Range Water Resources Plan (2002-2030) (LRWRP) outlines a process for the City to develop its own local water supplies and become less reliant on imported water. On December 9, 2002, the City Council adopted the LRWRP which established a goal of developing 10,000 acre-feet per year and storing up to 20,000 acre-feet of local groundwater by 2010. The City's development of groundwater could provide a source of additional water supply, enhanced water quality and economic benefits. To utilize groundwater resources effectively, a better understanding of the basins is needed.

To achieve the groundwater goals of the LRWRP, preliminary work is being evaluated in San Pasqual, Mission Valley, and San Diego Formation Groundwater Basins. Two projects are underway in San Pasqual: a Desalination Demonstration project which received a \$1.5 million Prop 50 grant; and, a Conjunctive Use Study which was awarded \$750,000 in grant funding from San Diego County Water Authority. Additionally, in November 2007, the Council adopted the Groundwater Management Plan for San Pasqual Basin (R-303177).

In the Mission Valley Basin, a multi-depth monitoring well, constructed by the USGS for the City, collects water quality data. In addition, a 1,550 foot monitoring well was installed by the USGS for the City in the Balboa Park vicinity to collect data and to determine the potential for groundwater development at that location. A feasibility study to assess the potential of groundwater desalination in the San Diego Formation is underway with the assistance of a Prop 50 grant of \$249,700.

The proposed hydrogeologic investigation to be performed under this Agreement will assist the City in implementing the above mentioned groundwater projects by providing data and analysis of hydrogeologic and water quality information.

Tasks to be completed under this Agreement are:

- Three monitoring wells in San Pasqual Basin,
- Hydrogeologic analysis of San Pasqual Valley,
- Groundwater-level monitoring of the Mission Valley Basin,
- Data collection and analysis for the San Diego Formation, and
- Hydrogeologic analysis of the San Diego Formation.

EQUAL OPPORTUNITY CONTRACTING:

This Agreement with the USGS, a federal agency, involves only work performed by federal employees and will not include any contracting.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-102: (Continued)

SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

The Agreement not-to-exceed amount is \$500,000 and will be funded from Water Department FY 2008 Operating Budget, Water Fund 41500, Org. 8320.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

December 9, 2002, the City of San Diego adopted the Long-Range Water Resources Plan (LRWRP) by Resolution R-2003-657 in which the San Pasqual Basin was identified as a potential groundwater supply. On May 16, 2006, the Council approved the consultant agreement with MWH Americas, Inc. for the preparation of a San Pasqual Basin Groundwater Management Plan (R-301447). On February 27, 2007, the City Council approved the agreement with RBF to perform the San Pasqual Brackish Groundwater Desalination Demonstration Project. On June 27, 2007, the City Council approved the agreement with CDM to perform San Pasqual Conjunctive Use Study. On November 20, 2007, the Council adopted the San Pasqual Groundwater Management Plan (R-303177). The NR&C approved the Cooperative Hydrogeologic Investigations Agreement with USGS on April 23, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Water Department has been actively involved in public outreach efforts through presentations to community groups and by providing project fact sheets and project information on the City's web page at www.sandiego.gov.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

As an initiative to meet the goals of the Long-Range Water Resources Plan, the City water rate payers are stakeholders. In addition, the USGS and regional water agencies will gain scientific knowledge from these activities.

Ruiz/Barrett

Aud. Cert. 2800814.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-103: California Center for Sustainable Energy (CCSE) Customer Service Agreement. (Citywide.)

[?View referenced exhibit back-up material.](#)

(See Metropolitan Wastewater Department's 3/17/2008, Executive Summary Sheet; California Center for Sustainable Energy's 5/28/2008, PowerPoint; and memorandum from Jim Barrett dated 3/12/2008.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-856)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a four-year, phase-funded, Sole-Source Agreement with California Center for Sustainable Energy, to provide energy efficiency improvements to Metropolitan Wastewater Department facilities, under the terms and conditions set forth in the Customer Service Master Agreement;

Authorizing Phase 1 of the Agreement in an amount not to exceed \$310,000 under the terms and conditions contained in Exhibit A of the Master Agreement;

Authorizing the expenditure of an amount not to exceed \$1,400,000 from Sewer Operating Fund No. 41508, solely and exclusively, to provide funds for the above agreement, to be expended as follows:

- \$310,000 from Fiscal Year 2008 appropriations, for Phase 1 of the Agreement;
- \$390,000 from Fiscal Year 2009 appropriations for Phase 2 of the Agreement, contingent on the Council's approval of the Fiscal Year 2009 operating budget and provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit with the City Treasurer;
- \$350,000 from Fiscal Year 2010 appropriations for Phase 3 of the Agreement, contingent on the Council's approval of the Fiscal Year 2010 operating budget and provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit with the City Treasurer; and

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-103: (Continued)

- \$350,000 from Fiscal Year 2011 appropriations for Phase 4 of the Agreement, contingent on the Council's approval of the Fiscal Year 2011 operating budget and provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit with the City Treasurer.

Authorizing the Mayor, or his designee, to enter into subsequent Phases of the Agreement, as provided by the City Charter and the Municipal Code and provided that the California Public Utilities Commission continues the Tax Exempt Incentive Program;

Authorizing the City Auditor and Comptroller to accept revenue from the California Public Utilities Commission under its Tax Exempt Customer Incentive Program due to the City's energy conservation projects completed through Phase 4 of the above agreement, in the estimated amount of \$385,000 and to deposit such revenue into Account No. 78552;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3) and Phase 1 energy efficiency projects are categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301 as the repair and reconstruction of existing sewer structures and facilities.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 5/28/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

In June 2000, the Metropolitan Wastewater Department (MWW) completed its first Master Energy Plan. Since that time, the Department's in-house energy auditors have identified over 200 potential energy saving improvements. As a result of these audits, over 46 energy improvements have been implemented and more improvements are pending additional analysis. Nearly 100 projects are ready for implementation.

The California Center for Sustainable Energy (CCSE), a 501(c)(3) not-for-profit California Corporation, has an exclusive agreement with San Diego Gas and Electric (SDG&E) to administer the Public Utilities Commission's Tax Exempt Customer (TEC) Incentive Program.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-103: (Continued)

SUPPORTING INFORMATION: (Continued)

This four-year pilot program provides energy incentives to tax exempt customers for standard and non-standard energy conservation projects at twice to three times the rate that would be provided to for-profit customers. Unique to this program, CCSE is authorized to provide the tax exempt customer a Customer Service Agreement to completely implement the incentivized energy conservation projects. All of CCSE's administration costs are paid for by the SDG&E TEC Program.

CCSE has selected Siemens Building Technologies Division, within the guidelines of this California Public Utilities Commission energy incentive program and the requirements of CCSE's contract with SDG&E. Siemens will provide the required design/build services and energy performance monitoring and verification services for the energy conservation measures.

This Customer Service Agreement with CCSE allows the City to implement multiple phases of energy conservation projects. Each phase and the associated funding will be authorized by either the Mayor, or the City Council, per the City's requirement; and each phase will have its own environmental documentation.

Phase 1 will provide energy conservation measures on Pump Station 2's motor cooling water system and facility lighting systems and on MWW's Environmental Monitoring and Technical Services Laboratory's air conditioning system. Phase 1 will have an expected simple payback of less than 2 years.

The master agreement will expire in March of 2012. The pilot TEC incentive program is set to end as a pilot program in March of 2009, but may be continued by the PUC, if it is determined to be a success. This agreement will expire if the TEC program is not continued by the PUC in a similar manner.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)

Funding Agency: City of San Diego
 Goals: 15% Voluntary
 Subconsultant Participation: \$287,000 Non Certified Firms

Other: This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-103: (Continued)

SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

The amount of this action is \$1,400,000. It will phase-fund over four fiscal years from the Sewer Operating Budget, as follows:

Phase 1: \$310,000 from Fiscal Year 2008 appropriations; Phase 2: \$390,000 from Fiscal Year 2009 appropriations; Phase 3: \$350,000 from Fiscal Year 2010 appropriations; and Phase 4: \$350,000 from Fiscal Year 2011 appropriations, contingent on Council's approval of funding for each fiscal year's operating budget, and provided that the City Auditor & Comptroller furnishes one or more certificates stating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

This action is funded from sewer revenue rates only.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was reviewed and approved by the Natural Resources and Culture Committee on 05/28/08.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This item was approved by the Metro Technical Advisory Committee (TAC) on 2/28/07.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Rate Payers

California Center for Sustainable Energy (CCSE)

Siemens Building Technologies Division (sub-contractor for CCSE)

SDG&E

Public Utilities Commission

Projected impacts: Controlled energy costs, reduced power plant emissions, reduced need for additional electrical utility infrastructure.

Ferrier/Barrett

Aud. Cert. 2800793.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-104: Third Amendment to Agreement with RBF Consulting Group to Provide Additional Professional Services for the Aldine Drive Slope Stabilization Project. (Kensington-Talmadge Community Area. District 3.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1029)

Authorizing the Mayor to execute, for and on behalf of the City, an Agreement with RBF Consulting Group for providing design services, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$198,150 from Fund 30300, TransNet, CIP-52-592.0, Aldine Drive Slope Stabilization, for the purpose of providing funds for the above referenced Project;

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

Declaring that this activity is statutorily exempt from CEQA pursuant to State CEQA Guidelines Section 15262.

STAFF SUPPORTING INFORMATION:

On September 6, 2005, the City entered into an Agreement with RBF Consulting Group, the original of which is on file in the Office of the City Clerk as Document No. C-13379, to provide professional services for the Aldine Drive Slope Stabilization Project for an existing slope which has badly eroded and has undermined the existing homes atop the slope. The first phase of the agreements called for preparing feasibility studies and evaluating different design alternatives, and selecting a preferred design alternative. This phase of the design could not be determined early on in the process since each alternative had different scope of work, schedule, and fees. This amendment for the current agreement with RBF is to execute the design phase based on the recommended design alternative for the project. The project scope is to design and construct a retaining wall in order to stabilize the existing slope which eroded during the 2004/2005 rains and which was subsequently declared eligible for FHWA reimbursements due to the State and Federal declaration of a state of emergency and the damages associated with this declaration.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-104: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Community involvement and input has been ongoing and incorporated into the wall design. This amendment includes the costs to finish the final design contract documents.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego
Goals: 15% Voluntary (SBE/MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation: \$153,838 Certified Firms – 40%
\$379,936 Contract/Amendment Totals
Other: Work Force Report Submitted - Equal Opportunity Plan followed. Staff will monitor plan and adherence to Non-Discrimination Ordinance.

FISCAL CONSIDERATIONS:

Funding for this action: \$198,150, is currently available in CIP-52-592.0, Fund 30300, TransNet. With this action total consultant contract will be increased to \$379,936.

PREVIOUS COUNCIL ACTIONS:

The original contract with RBF Consulting was executed in September 2005 (C-13379).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Design elements have been presented to local community groups several times for feedback.

STAKEHOLDERS:

RBF Consulting
Ninyo and Moore (Subconsultant)
KTU+A (Subconsultant)
Southland Geotechnical (Subconsultant)
Heritage Architecture (Subconsultant)
Tierra Environmental (Subconsultant)
Affected home owners

Boekamp/Jarrell

Aud. Cert. 2800767.

Staff: Jamal Batta - (619) 533-7482
Ryan Kohut - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-105: Agreement with Bird Rock Development Corporation for the Administration of Contracts for Goods and Services in the Bird Rock Maintenance Assessment District for Fiscal Year 2009. (La Jolla Community Area. District 1.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1150)

Authorizing the Mayor to execute a Maintenance Agreement for the Administration of Contracts for Goods and Contracts for Services with the Bird Rock Development Corporation for the Bird Rock Maintenance Assessment District for a one year period beginning July 1, 2008 through June 30, 2009, in accordance with the San Diego Municipal Code Section 65.0212;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$24,750 from Fund No. 70281 for administrative costs incurred by the Bird Rock Development Corporation in the course of providing services under the Maintenance Agreement for the Bird Rock Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed the greater of \$3,500 or four percent of annual assessments from Fund No. 70281 to Fund No. 70208 for administrative costs incurred by the City of San Diego (City) in the course of providing administrative services to the Bird Rock Maintenance Assessment District, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available.

STAFF SUPPORTING INFORMATION:

The Maintenance Assessment District Ordinance, San Diego Municipal Code Section 65.0212, paragraph (b)(2), authorizes the City Council to approve a one-year Agreement with non-profit corporations to administer the Contracts for Goods and Contracts for Services in Maintenance Assessment Districts, if the required percentage of property owners have requested it. On August 2, 2005, the majority property owners in the Bird Rock Maintenance Assessment District (District) requested that their contracts be administered by the "Bird Rock Development Corporation" (Corporation).

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-105: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The Corporation, doing business as “Bird Rock Community Council,” wishes to enter into this Agreement with the City of San Diego from July 1, 2008 to June 30, 2009.

This action will authorize the Mayor to sign and execute the Agreement between the City and the Corporation for a period of twelve months beginning on July 1, 2008, and ending on June 30, 2009, with the following provisions:

1. The Corporation will administer Contracts for Goods and Contracts for Service and prepare financial statements for the District as provided for in the Maintenance Assessment District Ordinance, Landscape and Lighting Act of 1972, and as set forth in the Assessment Engineer’s Report for the Bird Rock Maintenance Assessment District.
2. The Corporation will perform all duties as set forth in the Agreement under Article I (“Scope of Services”) Section B (“Specific Requirements”). The Corporation will be reimbursed for these services within fifteen (15) working days from receipt of properly prepared reimbursement requests.
3. The Corporation will be compensated for administration in an amount not to exceed 15% of the approved assessments, or \$2,062 per month.

FISCAL CONSIDERATIONS:

Funds are available in the Bird Rock Maintenance Assessment District (Fund 70281) to reimburse the Corporation for maintenance services. The total approved annual assessments for Bird Rock MAD in Fiscal Year 2009 are \$145,091. Under the terms of the agreement, the City will be reimbursed the greater of \$3,500 or four percent of annual assessments for administrative services associated with the annual budget processing, property tax enrollment and collections, professional engineering services, on-site inspections, and audit services from the District budget (Fund 70281.)

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Bird Rock Maintenance Assessment District was approved by affected property owners and then approved by City Council Resolution R-300746 on August 2, 2005. Subsequent agreements have been approved by City Council Resolutions on the following dates: City Council Resolution R-301592 on July 5, 2006; City Council Resolution R-301828 on August 15, 2006; and City Council Resolution R-302904 on August 3, 2007.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-105: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

An advisory committee consisting of property owners within the district is in favor of the Bird Rock Development Corporation administering the contracts for goods and services. On August 2, 2005, voters approved the Bird Rock Development Corporation administering the contracts for goods and services.

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

Key stakeholders in this area include all property owners within the boundaries of the Bird Rock Maintenance Assessment District and the Bird Rock Development Corporation (doing business as the Bird Rock Community Council).

LoMedico/Heap

Aud. Cert. 2800872.

Staff: Andrew Field - (619) 533-6724
Kimberly K. Kaelin - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-106: Pre-Employment and Department of Motor Vehicles Medical Examinations and Drug Testing.

[?View referenced exhibit back-up material.](#)

(See Report to the City Council No. 08-093.)

PERSONNEL DIRECTOR'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1146)

Authorizing the Personnel Director to execute, for and on behalf of the City, an agreement with U.S. Healthworks Medical Group, Prof. Corp., to provide pre-employment and Department of Motor Vehicles medical examinations, drug testing, and related medical services as may be required for Fiscal Years (FY) 2009-2013, under the terms and conditions set forth in the Agreement;

Declaring that the estimated expenditure for FY 2009 is \$420,486, with the funds having been budgeted for this purpose.

SUPPORTING INFORMATION:

A comprehensive medical examination program was adopted by the Civil Service Commission as part of an effort to reduce industrial injuries to employees and to control the costs of such injuries. The random drug testing is provided for in three bargaining units. Personnel does not have facilities or medical staff to perform medical examinations. The alternative action would be to discontinue the DMV medical examinations and random drug testing. This may allow employees to be on the job without proper credentials or while using drugs.

FISCAL CONSIDERATIONS:

Funds for this purpose are to be budgeted in the City's General Fund, Refuse Disposal, Development Services Enterprise, Water, Metropolitan Sewer, and Equipment Division Internal Service Funds. The approximate costs for FY 2009 for all funds is \$420,486. Avoidance of just one worker's compensation, disability retirement or public liability expense can result in substantial savings to the City.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The previous contract and Resolution No. R-29970 was unanimously adopted by the Council on November 4, 2004.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-106: (Continued)

SUPPORTING INFORMATION: (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Dehghani

Aud. Cert. 2800890.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-107: First Amendment to Restated Lease Agreement with Old Globe Theatre. (Balboa Park Community Area. District 3.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1062)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Amendment to the Lease Agreement, adding the Sunken Gardens to the Old Globe's leasehold and providing the City of San Diego with an option to reclaim the Back Lot, according to the terms and conditions set forth in the Amendment;

Authorizing the City Auditor and Comptroller to accept the increase in Lease rent payments and deposit them into the General Fund.

Declaring that the Lease Amendment is Categorically Exempt from CEQA pursuant to State CEQA Guidelines 15301. The proposed project which this Lease Amendment covers is adequately addressed under Project No. 137442, Conrad Prebys Theatre Center and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, the activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

Real Estate Assets is responsible for the administration of the lease agreements within Balboa Park on behalf of the Park and Recreation Department (P&R). The current lease agreement with the Old Globe is dated April 2, 1984, and is filed in the Office of the City Clerk's as Document Number RR-260398. For the past several years, the Old Globe Theatre has obtained permits through P&R in order to use the Sunken Garden area adjacent to their leasehold for various functions. Due to its location immediately outside of the current leasehold, the Old Globe has maintained portions of the landscaping of the area for the past several years in order to give the area a uniform appearance. The addition of this area to the Old Globe's leasehold will also eventually become part of their proposed renovation project. Any changes to the area have been included in the Old Globe's proposed project and will be subject to all steps of the required reviews.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-107: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

P&R is seeking the ability to take back an unused portion of land on the north side of the Old Globe's Leasehold in order to accommodate future plans for a circulation plan for the park. These plans are not final and the City's option to take back the portion of the property may only be exercised upon certification of any necessary environmental documents related to the circulation plan.

FISCAL CONSIDERATIONS:

The Old Globe will pay an annual non-profit administration fee starting at \$2,500 in the first lease year in order to help off-set City staff time and costs to administer the lease agreement. This amount will be increased each year according to the Current Price Index (CPI).

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The proposed changes to the increased leasehold area that are included in the renovation project's General Development plan have been approved unanimously by the Balboa Park Committee on July 5, 2007; unanimously by the Design and Review Committee on July 12, 2007; and unanimously by the Park and Recreation Board on January 17, 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City of San Diego will benefit from the ability to easily acquire a portion of the leasehold if necessary for a circulation plan for the park and will be partially reimbursed for expenses related to administering the lease agreement.

Barwick/Anderson

Staff: Gary Jones - (619) 236-6264
Kimberly Ann Davies - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-108: Establishing the Oak Park Banner District. (Oak Park Community Area. District 4.)

[?View referenced exhibit back-up material.](#)

COUNCILMEMBER YOUNG'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1063)

Establishing the Oak Park Banner District;

Authorizing the City Auditor and Comptroller to allocate an amount not to exceed \$3,000 from the Council District 4 Infrastructure Improvement Fund to the Oak Park Community Council, for the purpose of acquiring and installing banners in selected locations;

Declaring that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the State CEQA Guidelines.

SUPPORTING INFORMATION:

This request is to approve the establishment of the Oak Park Banner District. The new banner district will be limited to streets in the Oak Park community.

FISCAL CONSIDERATIONS:

Council District 4 will assist the Oak Park Community Council with costs associated with acquiring and installing banners in the amount of \$3,000. Funds are to be allocated to the Oak Park Community Council, a 501(c)3, from the 4th District Infrastructure Improvement Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

After receiving input from Oak Park community members, the Oak Park Community Council voted on March 17, 2008, to create a banner district in Oak Park consisting of (20) locations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Oak Park Community Council supports establishing the banner district.

Slack

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-109: Settlement with Travelers Insurance on Environmental Claim under Policy Number GU2829120. (Barrio Logan Community Area. District 8.)

[?View referenced exhibit back-up material.](#)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1160)

A Resolution approved by the City Council in Closed Session on Tuesday, June 10, 2008, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Young-yea; Maienschein-yea; Frye-yea; Council President Pro Tem Madaffer-yea; Hueso-yea;

Authorizing the Mayor, or his designee, to enter into a Settlement Agreement with Travelers Insurance to resolve the City of San Diego's claims on its first party insurance claim on Policy Number GU2829120 whereby the City of San Diego shall receive payment in the amount of \$350,000;

Authorizing the City Auditor and Comptroller to deposit \$350,000 received from Travelers Insurance into Sewer Revenue Fund 41506 in Revenue Account 78710.

SUPPORTING INFORMATION:

The City constructed the Sewer Pump Station (SPS) 34/5 Project in the vicinity of Harbor Drive and Beardsley St. on a City easement across property owned by BNSF Railway. In the course of replacing sewer pipes within its easement, the City encountered substantial quantities of petroleum hydrocarbons during dewatering operations. As a result of the contamination of the soil and the groundwater, construction activities had to be significantly altered and the groundwater that was removed had to be filtered in order to discharge into the sewer system.

Travelers Insurance has agreed to settle the City's first party claim under Policy Number GU2829120 with a payment to the City of \$350,000. Travelers has further agreed to waive the \$100,000 deductible and waive its right to reimbursement or subrogation.

FISCAL CONSIDERATIONS:

City to receive \$350,000 from Travelers Insurance. The funds shall be deposited to Sewer Revenue Fund 41506 in Revenue Account 78710.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-109: (Continued)

SUPPORTING INFORMATION: (Continued)

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This settlement was considered by the City Council in Closed Session on June 10, 2008. On motion of District 8 and second by District 3, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, and 8; Nays, None; Not Present, None; approved the settlement of the City's claim with Travelers Insurance in the amount of \$350,000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Taylor

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-110: Settlement of Litigation Entitled Jaime Limon vs. David Lamont Williams, Allied Gardens Towing Inc. Road One West, et al.

[?View referenced exhibit back-up material.](#)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1164)

A Resolution approved by the City Council in Closed Session on Tuesday, June 10, 2008, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Young-yea; Maienschein-yea; Frye-yea; Council President Pro Tem Madaffer-yea; Hueso-yea;

Authorizing the Mayor, or his designee, to enter into a Settlement Agreement with Road One West, Inc., Allied Gardens Towing, Inc., A to Z Enterprises, Inc., and David Williams to resolve the City of San Diego's claims set forth in San Diego Superior Court Case No. GIE 030725, Jaime Limon v. David Lamont Williams, Allied Gardens Towing, Inc., Road One West, et al, whereby the City of San Diego shall receive payment of \$103,500 to the City of San Diego's benefit, and additional payment to the City of San Diego of \$239,000 to be held in trust in an interest bearing account, which sum shall be payable to the City of San Diego if Jaime Limon receives a disability retirement related to incident underlying the subject litigation, or if no such disability retirement occurs, shall be payable to Jamie Limon, and subject to such further terms as specified in the Settlement Agreement;

Authorizing the City Auditor and Comptroller, upon receipt of all funds due the City of San Diego from the settlement of San Diego Superior Court Case No. GIE 030725, Jaime Limon v. David Lamont Williams, Allied Gardens Towing, Inc., Road One West, et al, to open an interest bearing account with the principal sum of \$239,000, to be held in trust for Jamie Limon and the City of San Diego, which sum shall be payable to the City of San Diego if Jaime Limon receives a disability retirement related to incident underlying the subject litigation, or if no such disability retirement occurs, shall be payable to Jamie Limon, and subject to such further terms as specified in the Settlement Agreement. The money received is designated for Fund No. 60029 and to be deposited in Account No. 78201.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-110: (Continued)

SUPPORTING INFORMATION:

This litigation arises from a traffic collision where a City of San Diego employee, acting in the course and scope of his employment, was injured. The City paid Worker's Compensation benefits to or on behalf of the injured employee. The employee has also filed for disability retirement as a result of the injuries from the accident; however whether this will be granted has not been determined. The City joined in litigation by the employee against the party alleged to be responsible for the collision.

This settlement results in a payment to the City of \$103,500 for the City's damages related to the Worker's Compensation benefits the City paid as a result of the City employee's injuries and payment of an additional \$239,000 to the City, to be held in trust for the City and the City employee, which sum shall be payable to the City if the City employee receives a disability retirement related to incident underlying the subject litigation, or if no such disability retirement occurs, payable to the City employee.

FISCAL CONSIDERATIONS:

Payment to the City of \$103,500 for the City's benefit. Payment to the City of \$239,000 to be held in trust for the City and the City employee, payable to the City if and when the City employee receives a disability retirement resulting from the underlying incident; payable to the City employee if and when the employee's disability retirement application is denied or withdrawn.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This settlement and payment was considered by the City Council in Closed Session on June 10, 2008. On motion of District 3 and second by District 7, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 4, 5, 6, 7, and 8; Nays, none; Not Present, none; approved the settlement of all claims of the City against Road One West, Inc., Allied Gardens Towing, Inc., A to Z Enterprises, Inc., and David Williams in the litigation of Jaime Limon v. David Lamont Williams, Allied Gardens Towing, Inc., Road One West, et al., San Diego Superior Court Case No. GIE 030725, for payment of \$103,500 to the City for the City's benefit, and \$239,000 to be held in trust for the City and the City employee, payable to the City if the City employee receives a disability retirement resulting from the underlying incident; payable to the City employee if no such disability retirement occurs.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A**KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):** N/A

Folkman

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-111: Jess Durfee Day.

[?View referenced exhibit back-up material.](#)

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-1133)

Commending and thanking Jess Durfee for the contribution he has made to the City of San Diego and wishing him a very happy 50th birthday;

Proclaiming June 8, 2008, to be "Jess Durfee Day" in the City of San Diego.

* ITEM-112: Protection and Advocacy Incorporated Day.

[?View referenced exhibit back-up material.](#)

COUNCILMEMBER HUESO'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1136)

Proclaiming June 20, 2008, to be "Protection and Advocacy Incorporated Day" in recognition of 30 years of services to Californians with disabilities and in celebration of the organization's change in name to Disability Rights California.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-113: Declaring a Continued State of Emergency Regarding the Wildfires.

[?View referenced exhibit back-up material.](#)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-887)

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

* ITEM-114: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

[?View referenced exhibit back-up material.](#)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-817)

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-115: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

[?View referenced exhibit back-up material.](#)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1110)

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

- * ITEM-116: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

[?View referenced exhibit back-up material.](#)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-865)

Declaring a continued state of emergency to persist relative to the landslide on Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in Resolution No. R-303041 shall continue to have full force and effect.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

NOTE: This item may be taken in the morning session if time permits.

ITEM-330: Soledad Mountain Road Emergency Repair. (La Jolla Community Area. District 2.)

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1162)

Authorizing the City Auditor and Comptroller, in accordance with the Annual Appropriation Ordinance, to amend the Fiscal Year 2008 Capital Improvement Program budget by increasing CIP-52-805.0, Soledad Mountain Road Emergency Repair, by an amount not to exceed \$2,270,000;

Authorizing the City Auditor and Comptroller to transfer the amount of \$2,270,000 to TransNet Fund No. 30300, CIP-52-805.0, Soledad Mountain Road Emergency Repair, from the following accounts:

- \$925,000 from CIP-52-679.0, Miramar Road
- \$200,000 from CIP-52-676.0, Mira Sorrento Place
- \$380,000 from CIP-68-006.0, Guard Rails
- \$200,000 from CIP-68-001.0, Cooperative Signal Projects
- \$50,000 from CIP-58-001.0, New Developments
- \$270,000 from CIP-52-716.7, West Point Loma Sidewalk
- \$245,000 from CIP-52-719.0, Mission Beach Boardwalk Bulkhead;

Authorizing the expenditure of an amount not to exceed \$2,270,000 from TransNet Fund No. 30300, CIP-52-805.0, Soledad Mountain Road Emergency Repair, solely and exclusively, to provide funds for repairs to Soledad Mountain Road;

Authorizing the Mayor, or his designee, to reimburse the above CIP project funds with state and federal money when received;

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-330: (Continued)

Authorizing the City Auditor and Comptroller to re-appropriate funds to the originating sources within TransNet Fund No. 30300 as identified above, or to return excess budgeted funds, if any, to the appropriate reserves on advice of the administering department;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15269(a) because this activity is taken to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as the result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed.

STAFF SUPPORTING INFORMATION:

On October 3, 2007, a sudden natural event occurred along the 5700 block of Soledad Mountain Road (SMR). The City Council, by Resolution R-303041, on October 5, 2007, declared a state of emergency for the event. The cost to repair the damage caused to the roadways is estimated at approximately \$26 million. On December 18, 2007, by Resolution R-303265 the City Council approved \$7.5 million to partially fund the emergency construction to restore and re-open the road, while seeking outside funding sources.

Soon after the event occurred, staff applied for State and Federal funding for the roadway restoration/repair project. The SMR qualifies for federal funding since it is a designated FAU road. Staff applied for funding from the Federal Highway Administration (FHWA) and the California Department Office of Emergency Services (OES). In the past six months, City staff have been working with representatives from FHWA, CalTrans, and OES providing the agencies with geotechnical data from field work on the site. On May 9, 2008, FHWA approved the eligibility of the project to receive Federal funding. OES will follow and soon will approve the eligibility of the project to receive State funds. The FHWA and OES cost shares are based on pre-established formulas. The Federal funds will cover approximately 88.5% of the eligible costs to repair Soledad Mountain Road and OES will pay approximately 75% of the remaining 11.5% share not covered by FHWA, and pay approximately 75% of the cost to repair the alley. The City will bear the remaining costs for repairing these roads.

While waiting for the receipt of federal and state funding, and in order to keep construction moving forward, it is requested that \$2,270,000 be appropriated to the project from TransNet Fund 30300. The transfer of these funds may result in the delay of some projects identified in this action if funds are not reimbursed in the next 6 to 9 months.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-330: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

It is anticipated that Soledad Mountain Road will be completed and re-opened in early October 2008, one year from the day of the landslide.

FISCAL CONSIDERATIONS:

This action will make available an additional \$2,270,000 of the estimated \$26,000,000 total project cost. The funds for this action are available in Fund 30300, TransNet. At this time, the City Auditor and Comptroller is only able to certify the availability of \$2,270,000.

PREVIOUS COUNCIL / COMMITTEE ACTION:

- On October 4th, 2007, the City of San Diego declared a state of emergency related to the sudden natural event.
- City Council Resolution R-30325, December 8, 2007, allocated \$7.5million to the project, authorized the Mayor, or his designee, to apply for grant funding for the project , and ratified the construction contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community outreach efforts are continuous to keep the residents in the area informed about the situation.

KEY STAKEHOLDERS:

- The State of California
- Community members
- Hazard Construction Company

Boekamp/Jarrell

Aud. Cert. 2800889.

Staff: Marnell Gibson - (619) 533-5213
Thomas C. Zeleny - Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

NOTE: This item may be taken in the morning session if time permits.

ITEM-331: Settlement of All Pending Claims by the Mt. Soledad Memorial Association, Inc.

[?View referenced exhibit back-up material.](#)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1119)

Authorizing the City Attorney, on behalf of the City of San Diego (City), to enter into a Settlement Agreement (Agreement) with the Mt. Soledad Memorial Association, Inc. (Association), whereby the Association releases all claims it may have against the City, including without limitation all monies (Purchase Money) paid by the Association to the City for the purchase of the City's Mt. Soledad Memorial property, including without limitation any claim to interest thereon, in return for the City's assignment to the Association of all federal condemnation proceeds the City is entitled to receive from the United States of America as a result of the Preservation of Mt. Soledad Veterans Memorial Act, Pub. L. No. 109-272, 120 Stat. 770 (2006);

Authorizing the City Auditor and Comptroller, upon execution and delivery of the Agreement, to release any restrictions on the Purchase Money held by the City, including without limitation any interest earned thereon.

SUPPORTING INFORMATION:

On August 14, 2006, Congress passed the Preservation Act transferring title to the Mt. Soledad Memorial property (Memorial Property) to the Federal Government by way of an immediate legislative taking. The Preservation Act requires the Federal Government to compensate the City for this taking.

At the time of the federal taking, the Association had made improvements to the Memorial Property, and the Association has a pending claim against the City for the value of those improvements. The Association's claim against the City totals \$1,211,037.57. The Association has agreed to release the City from all claims if the City will assign the compensation it is entitled to receive from the Federal Government pursuant to Preservation Act.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-331: (Continued)

SUPPORTING INFORMATION: (Continued)

CONSIDERATIONS:

On October 19, 1994, the Association paid to the City \$14,500 for a portion of the memorial constituting a 15 by 15 foot parcel surrounding the memorial cross. In 1998, the Association paid an additional \$91,500 to acquire title to one-half acre of land surrounding the memorial cross. This sale was later voided as a result of a federal lawsuit. The Association has agreed these funds (i.e., the Purchase Money), with interest, will not have to be returned. Thus, the City will be adequately compensated for its prior interest in the Mt. Soledad Memorial property.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None, except the Council previously authorized, in Closed Session, mediation of the Association's pending claims. The settlement agreement renders such authorization moot.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

United States of America; Mt. Soledad Memorial Association, Inc.

Schaefer

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

The following item will be considered in the morning session which is scheduled to begin at 10:00 a.m.

ITEM-332: Modification of North Park Business Improvement District. The levying of assessments on businesses and the modification to the North Park Business Improvement District FY2009 Budget Report. (North Park Community Plan Area. District 3.)

[?View referenced exhibit back-up material.](#)

NOTE: Noticed Public Hearing and introduction of Ordinance to amend North Park BID will be held on July 28, 2008.
2nd Reading of Ordinance will be held on September 2, 2008.

STAFF'S RECOMMENDATION:

Hold public meeting and permit testimony in support of or in opposition to the modification of the District.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION(S):

At the first Council Date (Council meeting of May 27, 2008):

1. Declare intent to modify the North Park Business Improvement District by modifying the basis and method of assessment and by expanding the boundaries; to levy assessments; to modify the North Park Business Improvement District FY2009 Budget Report; to set June 24, 2008, as the noticed public meeting date; and to set July 28, 2008, as the noticed public hearing date to allow for public testimony regarding the proposed modifications and to hear all protests.

At the second Council Date (Council meeting of June 24, 2008):

2. Hold public meeting and permit testimony in support of or in opposition to the modification of the District, the levying of assessments on businesses, and the modification to the North Park Business Improvement District FY2009 Budget Report.

At the third Council date (Council meeting of July 28, 2008):

3. Hold the public hearing and permit testimony in support of or in opposition to the modification of the District, the levying of assessments on businesses, and the modification to the North Park Business Improvement District FY2009 Budget Report.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

4. Introduce the Ordinance amending the North Park Business Improvement District and confirming the modified FY2009 Budget Report. The effective date of the Ordinance and the modified Budget Report shall be November 1, 2008. (A second reading of the Ordinance is required).

STAFF RECOMMENDATION: Approve the requested actions.

EXECUTIVE SUMMARY:

An effort to modify the North Park Business Improvement District (NPBID) has been ongoing for a number of months under the auspices of the North Park Organization of Businesses (North Park Main Street). The proposed modifications include changing the assessment methodology within the existing NPBID boundaries and expanding the boundaries to include adjacent commercial areas within the North Park community using the proposed assessment methodology. The purpose of the modification is to increase the amount of resources available from within the existing BID boundaries and to build on the synergy between the commercial areas along University Avenue and 30th Street to better benefit the businesses in the larger commercial area.

The proposed assessment methodology would create four categories of business based on the number of employees and the assessments would range from \$125 up to \$500 annually. The expansion of NPBID would add businesses located along: 2004–2749 University Avenue; 3300–3799 and 4000-4199 30th Street; 2900-3049 Upas Street; 2900-3099 Dwight Street; and 2900-3099 Polk Avenue.

A Business Improvement District (BID), as authorized by California law, is a government-designated assessment area formed with the support of businesses to improve their business conditions. BID assessments are collected at the same time as the City's Business Tax but are accounted for separately by the City. All BID assessments are returned to the District from which they were collected to be used for improvement programs operated by the business membership and shaped by the needs of the district's businesses.

The City Council has adopted Council Policy 900-07 on Business Improvement Districts to clarify the process by which BIDs may be established or modified.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The policy states that proposed increases in assessment levels within an existing BID should be approved by at least two-thirds of the board of directors and that a proposed expansion of BID boundaries should be supported by 20% of eligible businesses within the expansion area as demonstrated by a petition.

In January 2008, City staff received notice of board approval to increase assessments in the NPBID. In February 2008, City staff received a number of petitions in support of expanding the NPBID and verified that the 20% threshold had been met. In accordance with Council Policy 900-07, City staff then conducted mailed ballot procedures to determine the level of support among the affected businesses in the existing District for increasing the assessments and among the affected businesses in the expansion area proposed to be included in the NPBID.

Council Policy 900-07 also provides that if a majority of those responding, when measured both numerically and when weighted by the amount of the proposed assessment, support the modifications then City Council may proceed with the public hearing process to amend the BID ordinance. A majority of the responding businesses in the existing NPBID supported the change in assessment methodology (numerically 68.8% / weighted 68.6%) and a majority of responding businesses within the proposed expansion area supported the expansion and the proposed levying of assessments (numerically 55.2% / weighted 56.9%). Pursuant to the Parking and Business Improvement Area Law of 1989 and the Ralph M. Brown Act a multi-step hearing process at Council is required and certain mailing and noticing requirements must occur.

FISCAL CONSIDERATIONS:

Approximately \$50,000 of additional annual assessments will be collected from the existing businesses as well as those businesses in the expanded area. It is anticipated that assessments would be levied and collected starting November 1, 2008, once approved by Council.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The NPBID was established by Ordinance No. O-16481 adopted on July 29, 1985.

EQUAL OPPORTUNITY CONTRACTING

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

North Park Main Street mailed letters and sent e-mails to BID businesses to notify them when the BID modifications were discussed at Board meetings and business mixers. All businesses holding a business tax certificate also received a ballot and information concerning the change in assessment methodology or the proposed expansion and levying of assessments.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Businesses within the BID are the key stakeholders of this action and would be impacted by the levying of the annual assessment in the amount of \$125 to \$500 per year depending on the location of the business and the business category.

Kessler/Anderson/MDB

Staff: Meredith Dibden-Brown – (619) 236-6485
Kim Harris – Deputy City Attorney

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT