

001731

MWD-7100 106 9/14

# REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO

1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE ONLY)  
2700374

TO: CITY ATTORNEY  
2. FROM (ORIGINATING DEPARTMENT): Metropolitan Wastewater Department  
3. DATE: June 7, 2007

4. SUBJECT: Additional Funding for MTDB and San Ysidro Sewer Main Participation Agreement

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.): Allan Navarro, 858-292--6459, MS 901A  
6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.): Craig Whittemore, 858-292-6471, MS901A  
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

### 8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	41506	9. ADDITIONAL INFORMATION / ESTIMATED COST:		
DEPT.	773	MTDB Contract: R-297018 \$ 903,890.00 R-298851 \$ 190,783.76 This Request \$ 68,394.36 Total Contract \$1,163,068.12		
ORGANIZATION	960			
OBJECT ACCOUNT	4224			
JOB ORDER	177494			
C.I.P. NUMBER	44-001.0/44-219.7			
AMOUNT	\$68,394.36			

### 10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT.	<i>[Signature]</i>	6/18/07	8	DEPUTY CHIEF	<i>[Signature]</i>	7-6-07
2	E.O.C.	<i>[Signature]</i>	6/25/07	9	C.O.O.	NOT REQ'D	
3	E.A.S.	<i>[Signature]</i>	6/29/07	10	CITY ATTORNEY	<i>[Signature]</i>	7/24/07
4	LIAISON OFFICE	<i>[Signature]</i>		11	ORIG. DEPT.	<i>[Signature]</i>	7/31/07
5	F.M.	<i>[Signature]</i>	7/3/07	DOCKET COORD: <i>[Signature]</i> COUNCIL LIAISON			
6	AUDITOR	<i>[Signature]</i>	7/5/07	<input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 9/4/07			
7							

11. PREPARATION OF:  RESOLUTIONS  ORDINANCE(S)  AGREEMENT(S)  DEED(S)

- Authorizing the Mayor, or his designee, to execute Amendment No. 2 to the Participation Agreement with MTDB for the design and construction of wastewater mains in San Ysidro Boulevard and Border Village Drive for a not to exceed amount of \$68,394.36, bringing the contract total to \$1,163,068.12.
- Authorizing the expenditure of \$68,394.36 from Sewer Fund 41506, CIP 44-001.0 Sewer Main Replacements, San Ysidro/MTDB Sewer Main Relocation Project for Amendment No. 2 to the Participation Agreement.

11A. STAFF RECOMMENDATIONS:

Adopt the Resolutions

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): Eight (8)

COMMUNITY AREA(S): San Ysidro

ENVIRONMENTAL IMPACT: This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section §15060(c)(3).

ATTACHMENTS: Cost Estimate Sheet, Amendment No. 2.

CITY CLERK INSTRUCTIONS: Please forward two copies of the Resolution to MWD, MS 901A, Attn: Rose Salarda.

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**EXECUTIVE SUMMARY SHEET**

<b>DATE REPORT ISSUED:</b>	June 7, 2007	<b>REPORT NO.:</b>
<b>ATTENTION:</b>	Council President and City Council	
<b>ORIGINATING DEPARTMENT:</b>	Metropolitan Wastewater Department	
<b>SUBJECT:</b>	Additional funding for MTDB and San Ysidro Sewer Main Participation Agreement	
<b>COUNCIL DISTRICT(S):</b>	Eight (8)	
<b>STAFF CONTACT:</b>	Allan Navarro (858)292-6459, Craig Whittemore (858)292-6471	

**REQUESTED ACTION:**

Executing Amendment No. 2 to the Participation Agreement with MTDB and authorizing the expenditure of \$68,394.36 from Sewer Fund 41506, CIP 44-001.0 Sewer Main Replacement, San Ysidro/MTDB Sewer Main Relocation Project, to fund the final invoice bringing the contract total to \$1,163,068.12.

**STAFF RECOMMENDATION:**

Adopt the resolutions.

**EXECUTIVE SUMMARY:**

The City entered into a Participation Agreement with the Metropolitan Transit District (MTDB) for the relocation of sewer facilities as part of MTDB's San Ysidro Trolley Station Enhancement project. The work consisted of the abandonment of the existing sewer, located in an easement along the railroad tracks behind the commercial buildings fronting San Ysidro Boulevard, and the construction of new sewer facilities on San Ysidro Boulevard and Border Village Drive per City Council Resolution RR-297018 dated September 3, 2002, in the amount of \$903,890.00.

During construction, underground facilities were discovered requiring additional design and post-design services including geotechnical testing, tunneling, and drainage revisions. On February 9, 2004, the City Council passed Resolution RR-298851 authorizing additional funding of \$217,000.00 for construction and contingencies. This action also amended the participation agreement. MTDB was authorized an additional \$190,783.76 bringing the contract total to \$1,094,673.76.

During the construction work for replumbing the buildings along San Ysidro Blvd. to the new sewer, it was discovered that the replumbing would require more work than originally anticipated. In addition to an increase in construction services, the buildings required additional design and post-design services including revision to the plans, and in the case of the "Price Buster Warehouse", night work was required so not to disrupt the daytime operations of the warehouse.

This action will amend the participation agreement for a not to exceed amount of \$68,394.36 bringing the total contract cost to \$1,163,068.12.

**FISCAL CONSIDERATIONS:**

The total of this request is \$68,394.36 and is available in Sewer Fund 41506, CIP 44-001.0, Annual Allocation - Sewer Main Replacements bringing the total contract cost to \$1,163,068.12. The project cost may be bond reimbursed approximately 80% by current or future debt financings.

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**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

On September 3, 2002 the City Council adopted Resolution No. RR-297018 authorizing the Participation Agreement with MTDB for the construction of new sewer facilities on San Ysidro Boulevard and Border Village Drive, and on February 9, 2004 the City Council adopted Resolution No. RR-298851 authorizing Amendment No. 1 in the amount of \$190,783.76 in additional funding for the project.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

All public outreach efforts, such as community presentations and construction updates, were done by MTDB.

**KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):**

Metropolitan Transit District (MTDB)

  
\_\_\_\_\_  
Originating Department  
\_\_\_\_\_  
Deputy Chief/Chief Operating Officer



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44-219.7  
San Ysidro Sewer Main Relocation/MTDB  
 APPO9i as of 5/22/07

ACTIVITY	CURRENT APPROP.	EXPEND.	ENCUMB.	NET BALANCE	APPROP. CHANGE	REVISED APPROP.
					This request	
<b>A. ENGINEERING</b>						
4114 PRELIM ENG-IN HOUSE	40,149.07	40,149.07	0.00	0.00		40,149.07
4116 CONSTR. ENGR. (IN-HOUSE)	85,125.78	84,841.29	0.00	284.49		85,125.78
4118 ENGINEERING SERVICE	0.00	0.00	0.00	0.00		0.00
<b>TOTAL ENGINEERING</b>	<b>\$125,274.85</b>	<b>\$124,990.36</b>	<b>\$0.00</b>	<b>\$284.49</b>	<b>\$0.00</b>	<b>\$125,274.85</b>
<b>B. CONSTRUCTION</b>						
4226 CITY FORCES	0.00	0.00	0.00	0.00		0.00
4224 PARTICIPATION AGREEMENT MTDB	1,120,890.00	1,094,673.76	0.00	26,216.24	-42,178.12	1,163,068.12
4810 INSURANCE	0.00	0.00	0.00	0.00		0.00
<b>TOTAL CONSTRUCTION</b>	<b>\$1,120,890.00</b>	<b>\$1,094,673.76</b>	<b>\$0.00</b>	<b>\$26,216.24</b>	<b>-\$42,178.12</b>	<b>\$1,163,068.12</b>
<b>C. EQUIPMENT AND FURNISHINGS</b>						
4922 (CONST. RELATED)	0.00	0.00	0.00	0.00		0.00
<b>TOTAL EQUIP &amp; FURN.</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>D. CONTINGENCIES</b>						
4905 CONTINGENCY RESERVE	0.00	0.00	0.00	0.00		0.00
4909 POOLED CONTINGENCY	0.00	0.00	0.00	0.00		0.00
<b>F. OTHER</b>						
4278 PEND COUNCIL ACTION AUDITOR	0.00	0.00	0.00	0.00		0.00
42781 PENDING AUDITOR CERTIFICATE	0.00	0.00	0.00	0.00		0.00
4279 OTHER NON PERSONNEL	0.00	0.00	0.00	0.00		0.00
<b>TOTAL OTHER</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>G. LAND ACQUISITION</b>						
4638 PROPERTY ACQUISITION	0.00	0.00	0.00	0.00		0.00
<b>H. TOTAL PROJECT COST</b>	<b>\$1,246,164.85</b>	<b>\$1,219,664.12</b>	<b>\$0.00</b>	<b>\$26,500.73</b>	<b>-\$42,178.12</b>	<b>\$1,288,342.97</b>

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MWD - 7100

Return Orig RESO TO:  
MWWWD: Routing Team  
MS# 901 A / Rose

(R-2007-1301)

RESOLUTION NUMBER R- \_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

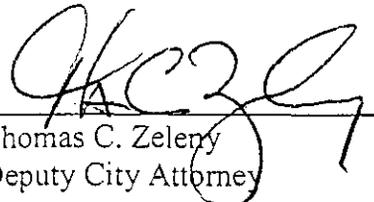
A RESOLUTION OF THE CITY COUNCIL AUTHORIZING  
A SECOND AMENDMENT WITH THE METROPOLITAN  
TRANSIT SYSTEM FOR THE DESIGN AND CONSTRUCTION  
OF WASTEWATER MAINS AT SAN YSIDRO BOULEVARD;  
AND AUTHORIZING THE EXPENDITURE OF \$68,394.36

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his  
designee is authorized to execute, for and on behalf of the City, a second amendment to the  
Participation Agreement with the Metropolitan Transit System (formerly Metropolitan Transit  
Development Board) for design and construction of wastewater mains at San Ysidro Boulevard /  
Border Village Drive, under terms and conditions set forth in the Second Amendment, on file  
in the office of the City Clerk as Document No. RR- \_\_\_\_\_.

BE IT FURTHER RESOLVED, that the expenditure of an amount not to exceed  
\$68,394.36 from Sewer Fund No. 41506, CIP 44-001.0, Sewer Main Replacements, San Ysidro/  
MTDB Sewer Main Relocation Project, is authorized, solely and exclusively to provide funds for  
the above Second Amendment.

BE IT FURTHER RESOLVED, 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).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By  \_\_\_\_\_  
Thomas C. Zeleny  
Deputy City Attorney

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(R-2007-1301)

TCZ:mb  
07/31/07  
Aud.Cert:2700874  
Or.Dept:MWWD  
MWD-7100  
R-2007-1301

I hereby certify that the foregoing resolution was passed by the Council of the City of San Diego,  
at its meeting of \_\_\_\_\_.

ELIZABETH S. MALAND, City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

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

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

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

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MWD-7100  
ORIGINAL

SECOND AMENDMENT TO  
THE PARTICIPATION AGREEMENT  
FOR THE DESIGN AND CONSTRUCTION  
OF WASTEWATER MAINS IN  
SAN YSIDRO BOULEVARD AND BORDER VILLAGE DRIVE

This Second Amendment to the Participation Agreement for the design and construction of wastewater mains in San Ysidro Boulevard and Border Village Drive [Second Amendment] is made by the City of San Diego, a municipal corporation [City], and the Metropolitan Transit Development Board [MTDB], a public entity, with offices located at 1255 Imperial Avenue, Suite 1000, San Diego, California, 92101 (individually referred to as "Party" and collectively as "Parties").

RECITALS

- A. On September 3, 2002, the City and MTDB entered into a Participation Agreement [Agreement], on file in the Office of the City Clerk as Document No. RR-297018, where MTDB would design and construct approximately 2400 linear feet of sewer main and laterals in coordination with the San Ysidro Intermodal Transportation Center Project, in return for reimbursement from the City in an amount not to exceed \$903,890.00.
- B. On February 9, 2004, the City Council passed Resolution No. R-298851 authorizing \$217,000.00 in additional funding for the project, of which \$190,783.76 was appropriated for additional sewer work due to these unforeseen utility conflicts.
- C. Additional funds of \$68,394.36 are necessary for extra work and unforeseen conditions associated with the completion of the sewer main.

NOW, THEREFORE, in consideration of the recitals and mutual obligations of the Parties as herein expressed, City and MTDB agree as follows:

AMENDMENT

- 1. Delete paragraph 5.1 and replace with the following:
  - 5.1 Project Budget. The City has established a budget for the wastewater system improvements in an amount not to exceed \$1,163,068.12 (Project Budget). The Project Budget may not be exceeded without prior approval of the San Diego City Council. If at any time MTDB anticipates that the project cost will exceed the Project Budget, MTDB shall immediately notify the City in writing. This written notification shall include an itemized cost estimate and a list of recommended revisions which MTDB believes will bring the project cost to within the Project Budget. Subject to the City Council's approval, the City may either: (1) approve an increase in the amount authorized for the project; or (2) delineate a project

which may be constructed for the Project Budget amount; or (3) any combination of (1) and (2). MTDB shall not be responsible for any resulting claims brought by the contractor or its subcontractors related to construction of the sewer facilities.

2. Delete paragraph 5.2 and replace with the following:

5.2 Reimbursement Amount. City shall reimburse MTDB for 100 percent of the actual cost of the design, construction management, and construction of the wastewater system improvements, including unforeseeable construction costs such as handling and disposing of hazardous material, and archaeological and paleontological mitigation in an amount not to exceed \$1,163,068.12 (Maximum Cost) as described in Exhibit "B" and supplemented by Exhibits "D" and "E."

3. Add the following language to the end of paragraph 1 of the Agreement and First Amendment:

MTDB shall also perform, or cause to be performed, additional work described in Exhibit "E," hereby incorporated into the Agreement by reference, to account for extra work and unforeseen conditions associated with completion of the sewer main.

4. The additional funds authorized by this Second Amendment represent the final payment to MTDB for completion of the wastewater system improvements. All of MTDB's outstanding claims for payment associated with the improvements are incorporated into this Second Amendment.

5. This Second Amendment represents the entire understanding of the City and MTDB and affects only those sections and references referred to herein, and all other terms and conditions of the Agreement and First Amendment remain in full force and effect.

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IN WITNESS WHEREOF, this Second Amendment is executed by the City of San Diego, acting by and through its Mayor or his designee pursuant to Municipal Code sections 22.3036 and 11.0102.5 authorizing such execution, and by MTDB through its authorized officer.

Metropolitan Transit Development Board

City of San Diego

By: \_\_\_\_\_  
Chief Executive Officer

By: \_\_\_\_\_  
Purchasing & Contracting Dept.

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
MTDB  
Office of General Counsel

Date: \_\_\_\_\_

I HEREBY APPROVE the form and legality of the foregoing Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

MICHAEL J. AGUIRRE, City Attorney

By \_\_\_\_\_  
Deputy City Attorney

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**EXHIBIT E**

The following reflects negotiated amounts for the additional work necessary to complete the wastewater system improvements and close out the contract, as described in letters from SANDAG dated September 16, 2005 and March 30, 2006.

*Additional Construction Management Services*

Additional construction management services in an amount not to exceed \$10,000.00.

*Additional Design Services*

Additional design services in an amount not to exceed \$15,000.00.

*Additional Construction Services*

All additional construction services in an amount not to exceed \$43,394.36.