

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 MONDAY, OCTOBER 21, 2002
 AT 2:00 P.M.
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:07 p.m.

Mayor Murphy adjourned the meeting at 4:22 p.m. to Closed Session on Tuesday, October 22, 2002 in the 12th floor conference room to discuss pending and potential litigation and Meet and Confer matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (er)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Pastor Mary Ann Kelley of Teachings of the Inner Christ Church.

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by City Attorney Casey Gwinn.

ITEM-30: Homeless Awareness Month.

(Continued from the meeting of October 7, 2002, Item S404, at Councilmember Atkins' request, for further review.)

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-438) ADOPTED AS RESOLUTION R-297197

Recognizing the existence and plight of homeless population of the City of San Diego and encouraging the goals and missions of those that fight to end homelessness in San Diego;

Proclaiming October 2002 to be "Homeless Awareness Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A023-090.)

MOTION BY ATKINS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: Mr. Charles L. Lewis Day.

DEPUTY MAYOR STEVENS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-400) ADOPTED AS RESOLUTION R-297198

Commending Mr. Charles L. Lewis III for his contributions and dedication to the City of San Diego;

Proclaiming October 21, 2002 to be "Mr. Charles L. Lewis Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A187-284.)

MOTION BY STEVENS TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-32: Work to End Domestic Violence Day.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-486) ADOPTED AS RESOLUTION R-297196

Recognizing Verizon Wireless as San Diego's Corporate Leader in the Fight
Against Domestic Violence;

Proclaiming October 21, 2002 to be "Work to End Domestic Violence Day" in
San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A585-B112.)

MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following
vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-50: Add Municipal Code Section 22.0229 (Re: City Manager's Preparation of Annual
Budget Regarding Mission Bay Park and Other Regional Parks.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 10/7/2002.
(Council voted 9-0):

(O-2003-64 Rev. Cor. Copy) ADOPTED AS ORDINANCE O-19113
(New Series)

Amending Chapter 2, Article 2, of the San Diego Municipal Code by amending
Division 2, by adding Section 22.0229, titled Preparation of the Annual Budget:
Mission Bay Park and Other Regional Park Improvements, all relating to the City
Manager's preparation of the annual budget pertaining to improvements to
Mission Bay Park and other regional parks.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-51: Exempt a Council Representative I position from the Classified Service for Council District Six.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/7/2002. (Council voted 9-0):

(O-2003-65) ADOPTED AS ORDINANCE O-19114 (New Series)

Ordinance exempting a Council Representative I position from the Classified Service for Council District 6.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-52: Exempting a Position from Classified Service in the Governmental Relations Department.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/7/2002 (Council voted 9-0):

(O-2003-66) ADOPTED AS ORDINANCE O-19115 (New Series)

Exempting an Assistant to the Director Position from the Classified Service in the Governmental Relations Department.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-53: Approval of Ordinance amending the San Diego Municipal Code related to FY 2003 Negotiated Retirement Benefit Enhancements.

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2003-67) INTRODUCED, TO BE ADOPTED ON MONDAY,
NOVEMBER 11, 2002

Introduction of an Ordinance amending Chapter II, Article 4 of the San Diego Municipal Code by amending Division 2 by amending Section 24.0201; by amending Division 3 by amending Section 24.0301; by amending Division 4 by amending Section 24.0402; by amending Division 5 by amending Section 24.0501; by amending Division 8 by amending Section 24.0801, and by Renumbering Section 24.0803 as Section 24.0802; by amending Division 12 by amending Sections 24.1201, 24.1202, 24.1203 and 24.1204; by amending Division 15 by amending Section 24.1507; all relating to the San Diego City Employees' Retirement System.

CITY MANAGER SUPPORTING INFORMATION:

Pursuant to the recently negotiated Memoranda of Understanding and associated agreements with the Fire Fighters Local 145, Municipal Employees Association (MEA), AFSCME Local 127 and the Police Officers Association (POA) the City agreed to implement a number of revisions to Retirement Benefits as defined in the San Diego Municipal Code. Those benefit enhancements and associated San Diego Municipal Code amendments are summarized below:

Presidential Leave - Amends Sections 24.0201 and 24.0301 to provide that a member serving as the duly elected president of a recognized employee labor organization may continue participating in the Retirement System consistent with the governing Memorandum of Understanding (MOU) between the City and his/her employee organization.

Retirement Benefit Factor increase - Amends Section 24.0402 to reflect the new retirement factor (2.5% at 55) available to General Members, as well as the 90% cap on benefits and exceptions to the cap that accompany the new retirement factors.

Stress Disability Benefit Extension - Amends Section 24.0501 to extend the benefit for Members who suffer mental disabilities due to a violent attack in the workplace, from July 1, 2002 to July 1, 2005.

CERS Contribution Agreement - Amends Section 24.0801 to state that the City's contributions to the Retirement System will be based on the terms of a Memorandum of Understanding between the City and the San Diego City Employees Retirement System (SDCERS).

Retiree Health Benefits - Amends Section 24.1202 to reflect the agreed upon reimbursement levels for Health Eligible Retirees.

Employer Offsets - Amends Section 24.1507 to allow payment of the negotiated offsets to employee contributions from the Employee Contribution Reserve; also amends Section 24.1507 to describe more clearly the terms of the Employee Contribution Rate Reserve.

Once approved by City Council, these benefits will be submitted to members of the City Employees' Retirement System (CERS), and will be enacted upon an affirmative vote of the members. This election is tentatively slated for the last week of November, 2002.

FISCAL IMPACT:

Cost of \$4.79M for 2.5% at 55 benefit enhancement (\$2.26M General Fund; \$2.53M Non-General Fund). Costs of \$11.34M for Retiree Health Benefits (from CERS 401 (h) & 115 Health Trust Reserves); and \$3.24M for Employee Offsets (from CERS Employee Contribution Rate Reserve) were approved by Council July 30, 2002.

Lexin/Kelly

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO INTRODUCE THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-100: Agreement with Metcalf & Eddy to Provide Vulnerability Assessment Services.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-522)

ADOPTED AS RESOLUTION R-297199

Authorizing the City Manager to execute an agreement with Metcalf and Eddy, Inc. to provide professional consultant services for a Water Security Vulnerability Assessment;

Authorizing the City Auditor and Comptroller to transfer an amount of reimbursable funds, not to exceed \$115,000 from the U.S. Environmental Protection Agency grant funding to Water Operating Fund 41500;

Authorizing the expenditure of an amount not to exceed \$115,000 from Water Operating Fund 41500, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

CITY MANAGER SUPPORTING INFORMATION:

In order to improve the safety and security of the Nation's water supply, the United States Environmental Protection Agency has appropriated funds to reduce the vulnerability of water utilities to terrorist attacks and to enhance their ability to respond to emergency situations. The Environmental Protection Agency (EPA) has awarded the City of San Diego \$115,000. On October 7, 2002, City Council authorized the City Manager to accept the EPA award to complete a vulnerability assessment by January 31, 2003.

In order to comply with the EPA guidelines and recommendations, the City requires professional engineering consultant services to perform a drinking water security vulnerability assessment. The Water Department is recommending Metcalf and Eddy Inc. as a "sole source" vendor due to their experience in conducting vulnerability assessments utilizing the recommended Sandia Risk Assessment Model (RAM) methodology and their knowledge of the City and San Diego County Water Authority (SDCWA) water systems.

Metcalf and Eddy Inc. has recently completed a Sandia based vulnerability assessment for the SDCWA. In addition to identifying Water Department vulnerabilities, additional insight will be gained by utilizing the services of Metcalf and Eddy, Inc. to identify the interdependencies and common regional issues that affect both the SDCWA and the Water Department. Metcalf and Eddy Inc. has also completed the raw water planning study for the Water Department, which gives them an understanding and demonstrated command of the operational complexity of the City's system as well as the overall mission of the Water Department.

FISCAL IMPACT:

The estimated cost of this contract is \$115,000. Costs to be reimbursed via EPA grant funding of \$115,000. Grant funds will be deposited into Water Operating Fund 41500.

Mendes/Gardner/CCW

Aud. Cert. 2300408.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C591-633.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-101: Three actions related to Amending Consultant Agreement and Inviting Bids and Award of Contract for Sewer Pump Station 45.

(See memorandum from Frank Belock dated 9/11/2002. La Jolla and University City Community Areas. District-1.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2003-245) ADOPTED AS RESOLUTION R-297200

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental and inviting bids for the Construction of Sewer Pump Station 45 - Replacement (Project);

Authorizing the City Manager to establish contract funding phases and to execute a contract with the lowest responsible bidder;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$935,089 from Sewer Fund 41506, of which \$654,919.06 is from CIP-46-191.0, Brine Management Force Main and Pump Station; \$202,082.25 is from CIP-46-139.0, Home Avenue Trunk Sewer - Contract I; and \$78,087.69 is from CIP-41-923.0, Sewer Pump Station 26, to CIP-46-601.6, Sewer Pump Station 45 - Rehabilitation.

Authorizing the expenditure of an amount not to exceed \$12,796,309, of which \$11,742,281 is from Sewer Fund 41506, CIP-46-601.6, Sewer Pump Station 45, and \$1,054,028 is from Sewer Fund 41506, CIP-46-193.0, Annual Allocation - Sewer Pooled Contingency, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for the expenditure under contract funding phases are, or will be, on deposit with the City Treasurer;

Approving the addition of CIP-46-601.6, Sewer Pump Station 45, to the FY2003 Capital Improvement Program Budget;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K03024C)

Subitem-B: (R-2003-534) ADOPTED AS RESOLUTION R-297201

Authorizing the City Manager to execute the First Amendment to Phase II of the Design Consultant Agreement with Lee & Ro, Inc., for Sewer Pump Station 45 improvements, in an amount not to exceed \$235,987;

Authorizing the expenditure, not to exceed \$235,987, from Sewer Fund 41506, CIP-46-191.0, Brine Management Force Main and Pump Station;

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

Subitem-C: (R-2003-246) ADOPTED AS RESOLUTION R-297202

Declaring that the information contained in Mitigated Negative Declaration LDR-40-0840 has been reviewed and considered by Council;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/18/2002, NR&C voted 3 to 0 to approve. (Councilmembers Wear, Frye and Madaffer voted yea. Councilmembers Peters and Inzunza not present.)

* ITEM-101: (Continued)

CITY MANAGER SUPPORTING INFORMATION:

Sewer Pump Station 45 is located on an existing easement at 9888 Salk Institute Road in the La Jolla and University City community areas. Servicing the area since 1957, the pump station has reached its useful design life and needs to be upgraded to current City standards. The scope of work includes demolishing existing SPS 28, SPS 29, and SPS 45; constructing a new SPS 45; replacing 2,500 feet of vitrified clay gravity sewer and 5,460 feet of cast iron force main with 3,646 feet of new gravity sewer and 12,260 feet of new force mains. Of this work, 1,775 feet of 24-inch gravity main will be constructed at night, within the Torrey Pines Golf Course, via microtunneling and has been coordinated with the Golf Course Operations Manager to minimize all impacts. For the remaining construction activities, the work will be performed from Monday through Friday, 8:30 a.m. to 3:30 p.m. The new pump station will include new features such as emergency storage, a backup generator, and a Supervisory Control and Data Acquisition (SCADA) connection. Traffic control plans and moratoriums have been established to minimize all impacts to the traffic flow along North Torrey Pines Road. This project has been presented to the communities at several stages of design and has been approved by both the La Jolla and University Planning Group.

Amendment I compensates the consultant for additional services required to accommodate unforeseen design scope additions and plan revisions required after the design drawings were substantially completed. Design changes include: 1) realignment of the sewer mains as requested by UCSD and changes due to utilities relocated by Salk Institute on Salk Institute Road; 2) revisions to the mechanics of the pump station due to changes in design flows (projected flows were much higher than the actual flows which the consultant's scope was based upon); 3) conduction of an acoustical study and preparation of landscape plans as part of site development permit requirements; 4) the addition of environmental constraints to the contract as part of California Coastal Commission permit compliance; and 5) the project duration lengthened significantly due to moratoriums (e.g., environmental, superbowl, beach area), thus increasing the amount of coordination and construction management that will be involved.

FISCAL IMPACT:

The total cost of this Design Consultant Agreement is \$989,372. Of this amount, \$400,000 was previously authorized by R-291242, and \$353,385 was previously authorized by R-294535. The estimated cost for this amendment is \$235,987.

The total cost of this project is \$13,749,694. Funds of \$12,796,309 are available in Sewer Fund, CIP-46-601.6, Sewer Pump Station 45. The project is scheduled to be phase funded over FY2003 to FY2005.

Loveland/Belock/HR

Aud. Cert. 2300310.

WWF-03-623.

FILE LOCATION: SUBITEM A: CONT - Don Kelly Construction, Inc.,
W.O. 174931; SUBITEMS B & C: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-102: Inviting Bids and Award of Contract for Replacement of Tree Root Damaged Sidewalk, Curb/Gutter City Wide - Group C-21.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-244) ADOPTED AS RESOLUTION R-297203

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental and inviting bids for the Construction of Replacement of Tree Root Damaged Sidewalk, Curb/Gutter City Wide - Group C-21;

Authorizing the City Manager to execute a contract with the lowest responsible and reliable bidder for the Replacement of Tree Root Damaged Sidewalk, Curb/Gutter City Wide - Group C-21;

Authorizing the expenditure of an amount not to exceed \$657,000 from Street Division's Operating Fund 10440, provided that the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for the expenditure are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K-02242-C)

CITY MANAGER SUPPORTING INFORMATION:

This action will provide for the replacement of damaged concrete hard scape surfaces in all Council Districts. These locations involve the repair of sidewalks which have been damaged by parkway trees. The Street Division maintains over 5,000 miles of sidewalks. Specific sidewalk and curb/gutter locations for this project were selected from the Street Division's concrete repair backlog for tree root damaged sites. Locations which need repair are reported by City personnel and/or citizens. Street Division uses the following factors to identify and prioritize repair locations for both contractual services and city force work: the severity of the damage, the age of the request, other repair projects occurring at the same location, and utility conflicts. While the severity of the damage and the age of the request are the highest priorities, if best management practices dictate grouping jobs in the same geographic area, that course of action will be considered regardless of the age of the request. Damage rating factors from 1 to 4, with "1" being extensive damage to the right-of-way, "2" moderate, "3" routine, and "4" minimal damage, are also applied and considered in the prioritization.

It is projected that 395 locations will be completed by this contract. The proposed contract locations are sites which involve sidewalk, curb repairs, and pedestrian ramp installations throughout the city.

FISCAL IMPACT:

The cost of this contract is \$657,000. Funds are available in the Street Division's Operating Fund No. 10440.

Loveland/Gonzalez/MMW

Aud. Cert. 2300362.

FILE LOCATION: CONT - Replacement of Tree Root Damaged Sidewalk,
Curb/Gutter City Wide - Group C-21

COUNCIL ACTION: (Tape location: C345-463.)

MOTION BY MADAFFER TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-103: Inviting Bids and Award of Contract for Replacement of Damaged Sidewalk,
Curb/Gutter City Wide - Group C-23.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-514) ADOPTED AS RESOLUTION R-297204

Approving the plans, drawings, typical cross-sections, profiles and specifications submitted by the City Engineer for the replacement of damaged sidewalk (Curb/Gutter City Wide Group C-23);

Authorizing the City Manager to execute a contract with the lowest responsible bidder;

Authorizing the expenditure of an amount not to exceed \$150,000 from CIP-59-0020.0 Annual Allocation TransNet Fund 30300, for the purpose of providing funds for the project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K02243-C)

CITY MANAGER SUPPORTING INFORMATION:

This action will provide for the replacement of damaged concrete hard scape surfaces in all Council Districts. The Street Division maintains over 5,000 miles of sidewalks. Specific sidewalk and curb/gutter locations for this project were selected from the Street Division's general concrete repair backlog for non-tree root damaged sites. Locations which need repair are reported by City personnel and/or citizens. Street Division uses the following factors to identify and prioritize repair locations for both contractual services and city force work: the severity of the damage, the age of the request, other repair projects occurring at the same location, utility conflicts. While the severity of the damage and the age of the request are the highest priorities, if best management practices dictate grouping jobs in the same geographic area, that course of action will be considered regardless of the age of the request. Damage rating factors from 1 to 4, with "1" being extensive damage to the right-of-way, "2" moderate, "3" routine, and "4" minimal damage, are also applied and considered in the prioritization.

It is projected that 47 locations will be completed by this contract. Locations to be repaired include sidewalks, curbs/gutters, cross gutters, bus pads and curb ramps throughout the city.

FISCAL IMPACT:

The cost of this contract is \$150,000. Funds are available in CIP-59-002.0 Annual Allocation TransNet Fund 30300.

Loveland/Gonzalez/MMW

Aud. Cert. 2300352.

FILE LOCATION: CONT - New Century Construction

COUNCIL ACTION: (Tape location: C345-463.)

MOTION BY MADAFFER TO ADOPT WITH DIRECTION TO STAFF TO PURSUE TREE PLANTING IN ANY AREAS WHERE SIDEWALKS ARE BEING REPLACED. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-104: Re-Inviting Bids: Otay Water Treatment Plant Clearwell Storage Project.

(See memorandum from Larry Gardner dated 9/12/2002.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-247) ADOPTED AS RESOLUTION R-297205

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental and inviting bids for the Construction of the Otay Water Treatment Plant Clearwell Storage (Project) on Work Order No. 180901;

Authorizing the City Manager to establish contract funding phases and to execute a contract with the lowest responsible and reliable bidder;

Authorizing the expenditure of an amount not to exceed \$1,583,653 from Water Fund 41500, CIP-73-250.0, Otay Water Treatment Plant Clearwell Storage, and \$350,000 from Water Fund 41500, CIP-73-331.0, Water Pooled Contingency for the construction of the Otay Water Treatment Plant Clearwell Storage Project, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for the 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. (BID-K02022CA)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/18/2002, NR&C voted 3 to 0 to approve. (Councilmembers Wear, Frye and Madaffer voted yea. Councilmembers Peters and Inzunza not present.)

CITY MANAGER SUPPORTING INFORMATION:

On September 24, 2001, the City Council approved the Otay Water Treatment Plant (WTP) Clearwell Storage Project 's construction advertising (R-295500) and authorized the City Manager to enter into a construction contract with the lowest responsible bidder. However, on

December 21, 2001, all bids for this project were rejected because the project schedule was uncertain due to financial constraints with the Water Department's Capital Improvement Program. Subsequently, the installation of altitude valves at the South San Diego Reservoir were included in the project, necessitating additional funding.

The Otay WTP Clearwell Storage project is required to comply with state and federal water quality regulations and the City of San Diego's compliance order from the California Department of Health Services. This project includes the construction of two concrete 6.9 million gallon treated water storage reservoirs (clearwells) and associated grading and yard piping at the Otay WTP and the installation of altitude valves at the South San Diego Reservoir. Construction is scheduled to begin in the spring 2003 and be completed by the spring 2005.

A site development permit from the Development Services Department was obtained in accordance with Section 126.0502(a)(1) of the Land Development Code, and a Mitigated Negative Declaration (LDR-40-0932) dated July 13, 2001, (including Mitigation, Monitoring and Reporting Program), covering the activity at the Otay WTP, was adopted on September 24, 2001, (Resolution R-295500). The separate activity at the South San Diego Reservoir is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15303.

FISCAL IMPACT:

The total estimated cost of this project is \$19,969,681.54, of which \$18,036,028.54 was previously authorized. Funding for the construction contract and related costs will be phase funded in Fiscal Years 2003 and 2004. The additional requested funds are available in the amount of \$1,583,653 from Water Fund 41500, CIP-73-250.0, Otay Water Treatment Plant Clearwell Storage, and in the amount of \$350,000 from Water Fund 41500, CIP-73-331.0, Annual Allocation Water Pooled Contingency.

Mendes/Gardner/NMK

FILE LOCATION: CONT - Gateway Pacific Contractors; W.O. 180901

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-105: Contract Extension Option - Rubberized Emulsion Aggregate Slurry Coating of Various Streets City Wide Group S-7.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-519) ADOPTED AS RESOLUTION R-297206

Authorizing the City Manager to execute a contract extension option with American Asphalt South, Inc. (Agreement), for rubberized emulsion aggregate slurry coating of various streets city wide;

Authorizing the expenditure of an amount not to exceed \$2,616,380 from Street Division Operating Fund 10440;

Authorizing the City Auditor and Comptroller, upon advice from administrating department, to transfer any excess funds to the appropriate reserve.

CITY MANAGER SUPPORTING INFORMATION:

On January 14, 2002, the City Council authorized the award of the "Group S-6" slurry sealing contract, Bid K02050C, Resolution R-295951. The contract documents offered bidders the option of renewing and extending this contract at the same unit prices, terms and conditions, for one year only. The lowest responsive bidder, American Asphalt South, Inc. has indicated that they are willing to exercise this option. The Street Division has had favorable results with the current contract and now wish to exercise this optional contract extension.

This slurry sealing contract is part of the City's annual street maintenance program. The Street Division has allocated \$3,732,940 for the purposes of repairing and slurry sealing approximately 105 miles of streets. The \$3,732,940 will consist of the following: \$2,616,380-Construction Contract, \$50,295-Design, \$59,745-Project Management, \$33,390-Contract Inspection, \$500,000-Crack Sealing, \$77,700-Materials Testing, \$395,430-City Forces.

Slurry Sealing is applied on streets which are in good condition to protect them from deterioration. The Street Division uses Rubberized Emulsion Aggregate Slurry (REAS), which lasts longer, resists damage from water better, and stays black in color longer. Slurry Sealing used in a timely manner is very effective in reducing the need for more expensive pavement repairs. Locations for slurry sealing are chosen through the use of annual surveys and the pavement management system using the following criteria: age, oxidation, cracking, amount of patching, traffic flow, and avoiding conflicts with planned underground utility work. Final selection of streets will be made just prior to the start of work. The Mayor and Council will be

provided with a tentative list during the Council briefings and will be notified of any subsequent changes as soon as they are available. Construction for this project is expected to begin in March of 2003, and will take approximately four months to complete.

FISCAL IMPACT:

Funds for this project, \$2,616,380 are available from Street Division Operating Fund 10440.

Loveland/Gonzalez/MMW

Aud. Cert. 2300317.

FILE LOCATION: CONT - American Asphalt South Inc

COUNCIL ACTION: (Tape location: C466-590.)

MOTION BY MADAFFER TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: Contract Extension Option - Resurfacing - Various Streets City Wide Group R-6.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-513) ADOPTED AS RESOLUTION R-297207

Authorizing the City Manager to execute a contract extension option with Superior Ready Mix Concrete, dba, SRM Contracting and Paving;

Authorizing the expenditure of an amount not to exceed \$3,660,650 from Street Division Operating Fund 10440; \$500,000 from CIP-59-001.0 Annual Allocation, TransNet Fund 30300; \$70,200 from Sewer Revenue Fund 41506; and \$42,900 from Water Department Fund 41500;

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

CITY MANAGER SUPPORTING INFORMATION:

On December 10, 2001, the City Council authorized the award of the "R-5" street resurfacing contract, Bid K02049C, Resolution R-295867. The contract documents offered bidders the option of renewing and extending this contract, for one year only, at the same unit prices, terms, and conditions. The lowest responsive bidder, Superior Ready Mix Concrete, dba SRM Contracting and Paving, has indicated that they are willing to exercise this option. The Street Division has had favorable results with the current contract and now wishes to exercise this optional contract extension.

This resurfacing contract is part of the City's annual street maintenance program. Street Division has allocated \$4,859,270 for the purposes of repairing and resurfacing approximately 26 miles of streets. The \$4,859,270 will consist of the following: \$4,273,750 - Construction Contract; \$127,946 - Design; \$101,088 - Project Management; \$103,376 Contract Inspection, \$143,000 - Materials Testing; \$110,110 - City Forces.

Locations for resurfacing are chosen through the pavement management system using the following criteria: age, oxidation, cracking, amount of patching, traffic flow, and avoiding conflict with planned underground utility work. Failed pavement areas will be removed and repaired. Asphalt adjacent to curbs and gutters will be grinded down to maintain the existing curb height and proper drainage. Curb ramps will also be installed in accordance with ADA requirements. Approximately 11,000 tons of asphalt will be removed and recycled. Final selection of streets will be made, just prior to the start of work. The Mayor and Council will be provided with a tentative list during the Council briefings and will be notified of any subsequent changes as soon as they are available. Construction for this project is expected to begin in December 2002 and take approximately five months to complete.

FISCAL IMPACT:

Funds for this project are available as follows: \$3,660,650 from Street Division Operating Fund 10440, \$500,000 from CIP-59-001.0 Annual Allocation TransNet Fund 30300, \$70,200 from Sewer Revenue Fund 41506, and \$42,900 from Water Department Fund 41500 for a total of \$4,273,750.

Loveland/Gonzalez/MMW

Aud. Cert. 2300380.

FILE LOCATION: CONT - Superior Ready Mix Concrete dba SRM
Contracting; W.O. 005765

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-107: Vacation of a Water Easement in Parcels 2 and 3 of Parcel Map-18832.

(Otay Mesa Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-433) ADOPTED AS RESOLUTION R-297208

Vacating the water easement located in Parcels 2 and 3 of Parcel Map-18832, under the procedure for the summary vacation of public service easements, Section 8330 et seq. of the California Streets and Highways Code.

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate a water easement in Parcels 2 & 3 of Parcel Map-18832. This property is located in the Otay Mesa Planning area within Council District 8. This easement is on private property and the only purpose for this public service easement is to allow the City to construct and maintain water facilities within the easement area. The easement was granted to the City in October 2001 for the installation of fire hydrants. The fire hydrants were installed at a different location and another water easement was granted.

The Water Section of the Development Services Department has reviewed the abandonment request and recommends approval of the abandonment. This easement was acquired at no cost to the City.

City staff recommends approval of the easement abandonment.

FISCAL IMPACT:

None, all costs have been paid by the applicant.

Ewell/Broughton/AEA

FILE LOCATION: DEED F-9337

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-108: Vacation of Water Easement in the Remainder Parcel on Parcel Map-17794.

(Otay Mesa Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-434) ADOPTED AS RESOLUTION R-297209

Vacating the water easement located in the remainder parcel of Parcel Map-17794 to unencumber this property, under the procedure for the summary vacation of public service easements, Section 8330 et seq. of the California Streets and Highways Code.

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate a water easement in the remainder parcel of Parcel Map-17794. This property is located in the Otay Mesa Planning area within Council District 8. This easement is on private property and the only purpose for this public service easement is to allow the City to construct and maintain water facilities within the easement area. The easement was granted to the City in September 1998 for the installation of water facilities. The water line was installed at a different location and another water easement is granted in its place.

The Water Section of the Development Services Department has reviewed the abandonment request and recommends approval of the abandonment. This easement was acquired at no cost to the City.

City staff recommends approval of the easement abandonment.

FISCAL IMPACT:

None. All costs have been paid by the applicant.

Ewell/Broughton/AEA

FILE LOCATION: DEED F-9338

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-109: 25th Street Walkable Communities Project.

(Greater Golden Hill Community Area. Districts-3 and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-392) ADOPTED AS RESOLUTION R-297210

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2003 CIP Budget in CIP-39-236.0, 25th Street Walkable Communities within Fund 79501, Golden Hill Development Impact Fees in an amount not to exceed \$19,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$19,000 from CIP-39-236.0, 25th Street Walkable Communities within Fund 79501, Golden Hill Development Impact Fees.

CITY MANAGER SUPPORTING INFORMATION:

Council action is requested for \$19,000 to be allocated from Golden Hill Fund 79501 to supplement an unanticipated funding gap to implement the 25th Street Walkable Communities Demonstration Project CIP-39-236.0.

The 25th Street Walkable Communities Project is a series of innovative improvements aimed at facilitating pedestrian movement among historical communities which were torn apart by the construction of a major freeway. In FY2001, the Planning Department received a \$200,000 SANDAG Walkable Communities Grant for streetscape improvements along the 25th Street Highway 94 Overpass. Later in 2001, an additional \$20,000 in TransNet funds was allocated for traffic calming improvements on the Sherman Heights (south) side of the bridge. The purpose of this request for \$19,000 from Golden Hill Fund 79501 is to complete the full project and carry out matching traffic calming improvements on the Golden Hill (north)side of the bridge. Specifically, these improvements will include: the relocation of curbs and gutters (corner popouts at the northeast, northwest and southwest corners of 25th and F Street and patterned crosswalks along the north and west sides of this intersection) and the installation of new ADA Ramps at this intersection.

Over the past several months Planning staff have been working closely with community members from Golden Hill and Sherman Heights to further define this project. This project calls for innovative pedestrian-oriented streetscape improvements which focus on creating a safer walking environment for school children and their families. Engineering Design has been responsible for the design of the project with the involvement of an artist. The Planning Department has been working closely with the Engineering Department to determine the feasibility and costs of the proposed public improvements. Due to the time constraints of the SANDAG grant, this project must be completed by December 2002.

FISCAL IMPACT:

CIP-39-236.0, 25th Street Walkable Communities, would be fully funded as a result of this action: \$200,000 in the SANDAG Walkable Communities Grant Fund 30308; \$20,000 in TransNet Commercial Paper Fund 30306; and \$19,000 in Golden Hill Development Impact Fee Fund 79501. The new total project cost would be \$239,000.

Ewell/Goldberg/BS

Aud. Cert. 2300327.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-110: Transfer Funding to Sewer Main Replacement and Emergency and Accelerated Annual Allocations.

(See Memorandum from Frank Belock, Jr., dated 10/3/2002.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-530) ADOPTED AS RESOLUTION R-297211

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$504,037.94 from Fund 41506, CIP-46-191.0, Brine Mgt. Force Main and Pump Station, \$2,644,090 from Fund 41506, CIP-40-930.0, Otay Mesa Trunk Sewer, \$3,900,000 from Fund 41506, CIP-42-928.0, San Pasqual Process Replacement, \$291,004 from Fund 41506, CIP-43-004.0, Annual Allocation - Freeway Relocation, \$1,643,852 from Fund 41506, CIP-46-106.0, Annual Allocation - Pump Station Restorations, and \$4,935,766 from Fund 41506, CIP-46-194.0, Annual Allocation - Trunk Sewer Rehabilitations to Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement in an amount not to exceed \$13,250,749.94 and Fund 41506, CIP-46-206.0, Annual Allocation - Emergency & Accelerated Projects in an amount not to exceed \$668,000.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/9/2002, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Wear, Frye, and Madaffer voted yea. Councilmember Inzunza not present.)

CITY MANAGER SUPPORTING INFORMATION:

Funds are available in FY 2003 from the following projects as the result of the need to reschedule the work: CIP-46-191.0, Brine Management Force Main and Pump Station; CIP-42-928.0, San Pasqual Process Replacement; and CIP-40-930.0, Otay Mesa Trunk Sewer. In addition funds are available from the following FY 2003 annual allocations as a result of the identification of excess funds in FY 2003 and the rescheduling of projects under the specific annual allocation themselves: CIP-43-004.0, Annual Allocation - Freeway Relocation; CIP-46-106.0, Annual Allocation - Pump Station Restorations; and CIP-46-194.0, Annual Allocation - Trunk Sewer Rehabilitations. The transfer of these funds will allow the City to move forward with the critical replacement of sewer mains and will contribute to meeting the Mayor's goal of replacing sixty miles of sewer pipelines by Calendar Year 2004.

For purposes of utilizing sewer funds most efficiently, this transfer is being recommended to move the funds to the Sewer Main Annual Allocation 44-001.0 and Emergency and Accelerated 46-206.0 to make them available for upcoming projects. The City Council will be requested, at the time the individual sewer main or emergency and accelerated projects proceed, to authorize the actual expenditure of these funds at a later date.

FISCAL IMPACT:

Funding is available for the transfer of \$504,037.94 from Fund 41506, CIP-46-191.0, Brine Mgt. Force Main & Pump Station, \$2,644,090 from Fund 41506, CIP-40-930.0, Otay Mesa Trunk Sewer, \$3,900,000 from Fund 41506, CIP-42-928.0, San Pasqual Process Replacement, \$291,004 from Fund 41506, CIP-43-004.0, Annual Allocation - Freeway Relocation, \$1,643,852 from Fund 41506, CIP-46-106.0, Annual Allocation - Pump Station Restorations, and \$4,935,766 from Fund 41506, and CIP-46-194.0, Annual Allocation - Trunk Sewer Rehabilitations to Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement amounting to \$13,250,749.94 and to Fund 41506, CIP-46-206.0, Annual Allocation - Emergency and Accelerated Projects amounting to \$668,000 for this purpose.

Loveland/Belock

Aud. Cert. 2300396.

WWF-03-632.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-111: Two actions related to Approving and Ratifying FY2003-2005 Memoranda of Understanding Regarding Employment Benefits.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2003-528) ADOPTED AS RESOLUTION R-297212

Authorizing retirement benefits and retirement contributions for incumbent presidents of the San Diego Municipal Employees' Association, Police Officer's Association, and Local 145, the International Association of Fire Fighters, AFL-CIO.

Subitem-B: (R-2003-535) ADOPTED AS RESOLUTION R-297213

Approving the agreements regarding wages, hours and other terms and conditions of employment between the City of San Diego and the San Diego Municipal Employees' Association; Local 145 of the International Association of Fire Fighters; and Local 127, AFSCME, AFL-CIO.

CITY MANAGER SUPPORTING INFORMATION:

The Management Team of the City of San Diego has met and conferred with the Labor Unions and reached agreement on FY2003-2005 Memoranda of Understanding with Local 145 of the International Association of Fire Fighters, Municipal Employees Association (MEA) and AFSCME Local 127, regarding wages, hours, and other terms and conditions of employment.

Pursuant to these negotiations, the Management Team, Local 145, MEA and Local 127 have agreed to the provisions contained in the successor Memoranda of Understanding.

FISCAL IMPACT:

Costs associated with these agreements are contained in the FY2003 budget.

Ewell/Kelley

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-112: Excusing Councilmember Peters from attending Council Meetings of July 29 and September 9, 2002 and Committee Meetings of July 31 and September 18, 2002.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-520) ADOPTED AS RESOLUTION R-297214

Excusing Councilmember Scott Peters from attending the following regularly scheduled meetings:

City Council meeting of July 29, 2002, to serve on the California Commission on Taxation in the New Economy;

City Council meeting of September 9, 2002 to serve on the California Coastal Commission;

Land Use and Housing, and Natural Resources and Culture Committee meetings of July 31, 2002, to testify in Sacramento before the State Water Resources Control Board;

Land Use and Housing, and Natural Resources and Culture Committee meetings of September 18, 2002, to serve on the California Commission on Taxation in the New Economy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-113: Laura Li Mandri Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-516) ADOPTED AS RESOLUTION R-297215

Proclaiming October 12, 2002 to be "Laura Li Mandri Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-114: Clean Water Act Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-536) ADOPTED AS RESOLUTION R-297216

Proclaiming October 18, 2002 to be "Clean Water Act Day" in the City of San Diego;

Declaring that the City of San Diego recommits to the goals of the Clean Water Act by implementing the Municipal Stormwater Permit and commending the Clean Water Network for their dedication to ensuring that the goals and policies of the Clean Water Act are achieved.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* 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 following resolution:

(R-2003-356) ADOPTED AS RESOLUTION R-297217

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

FILE LOCATION: GEN'L - State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-116: Declaring a Continued State of Emergency due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-7) ADOPTED AS RESOLUTION R-297218

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L - State of Emergency due to Economic Circumstances in the San Diego-Tijuana Border Region

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-117: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-416) ADOPTED AS RESOLUTION R-297219

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER'S SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L - Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION: (Tape location: C220-343.)

MOTION BY INZUNZA TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-nay, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

* ITEM-118: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-432) ADOPTED AS RESOLUTION R-297220

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

FILE LOCATION: GEN'L - State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: 2002 Payment of the Annual Supplemental Benefit (13th Check).

(See memorandum from Lawrence Grissom dated 9/26/2002.)

RETIREMENT BOARD'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-458)

ADOPTED AS RESOLUTION R-297221

Authorizing the Retirement Board to pay the 13th Check in 2002 to all eligible retirees to the extent of the funds available in the 13th Check Account and 13th Check Reserve.

SUPPORTING INFORMATION:

San Diego Municipal Code (SDMC) Section 24.1503 describes the Annual Supplemental Benefit otherwise known as the 13th Check. According to SDMC Section 24.1502, the annual payment of the 13th Check in any given year is contingent upon the availability of Surplus Undistributed Earnings for that year. The cost of the 13th Check for 2002 is estimated to be approximately \$3.9 million dollars. There are insufficient Surplus Undistributed Earnings as described in SDMC Section 24.1502 to pay the 13th check in 2002. Pursuant to the settlement of the Andrews lawsuit in 1986, a stand-alone account known as the 13th Check Supplemental Benefit Account (13th Check Account) was established and credited with \$2 million dollars. The 13th Check Account was created to pay the 13th check in years in which there were insufficient Surplus Undistributed Earnings to pay this benefit. The reserve was depleted in 1991 when it was used to pay the 13th Check for that year. Although not required to do so, the Board replenished this account in 1997. It currently contains approximately \$3.5 million dollars.

There is one other account dedicated to the 13th Check benefit which is called the Reserve for Supplemental Benefit Payments (13th Check Reserve).

It contains approximately \$175,000. The Board's outside Fiduciary Counsel has advised absent approval by the City Council there is no authority to pay the 13th Check benefit in 2002 because there are no Surplus Undistributed Earnings this year as required by SDMC Section 24.1502. The Board's Fiduciary Counsel also advised there is no authority to charge either the 13th Check Account or the 13th Check Reserve to pay the 13th Check benefit absent specific direction from the City Council. The Board's Fiduciary counsel further advised a substantial portion of the 13th Check benefit for 2002 could be paid this year by charging the 13th Check Account and 13th Check Reserve if the City Council were to authorize payment of this contingent benefit to the extent of the funds available in this Reserve and Account.

On May 29, 2002, at a special meeting of the Retirement Board, the Board directed Staff to seek direction from the City Council regarding the payment of the 13th Check for 2002 using of the 13th Check Account and 13th Check Reserve. The use of the 13th Check Account and 13th Check Reserve to pay for the 2002 payment of the 13th Check does not alter the contingent nature of this benefit. If there are insufficient surplus undistributed earnings in any future year, there is no requirement to pay the benefit for that year.

Grissom

Aud. Cert. 2300357.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B447-C116.)

MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: Settlement of the Property Damage Claim of Jesus and Anna Rios.

(R-2003-443)

Adopted as Resolution R-297166.

A Resolution approved by the City Council in Closed Session on Tuesday, October 8, 2002, by the following vote: Peters-yea; Wear-yea; Atkins-yea; Stevens-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-not present; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$77,415.11 in the settlement of each and every claim against the City, its agents and employees, resulting from a sewer main line blockage on July 5, 2001, causing property damage to Jesus and Anna Rios (Claim File No. LP02-7773-0035). The City of San Diego previously paid a sum of \$42,320.73 from damages arising from this incident;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$77,415.11 made payable to Luth and Turley, Inc., in full settlement of all claims.

Aud. Cert. 2300343.

NOTE: This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-251: Settlement of Property Damage Claim of Ricardo Laranang.

(R-2003-493)

Adopted as Resolution R-297165.

A Resolution approved by the City Council in Closed Session on Tuesday, October 8, 2002, by the following vote: Peters-yea; Wear-yea; Atkins-yea; Stevens-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-not present; Mayor-yea.

Authorizing the City Manager to pay the sum of \$57,961.12 in complete settlement of each and every claim against the City, its agents and employees, resulting from a sewer main stoppage on August 6, 2001, causing property damage to Ricardo Laranang (Claim File No. LP-02-7773-0448); the City of San Diego previously paid a sum of \$15,463.30 from damages arising from this incident;

Authorizing the City Auditor and Comptroller to issue one check in the total amount of \$42,497.82 made payable to Luth and Turley, Inc., in full settlement of all claims.

Aud. Cert. 2300379.

NOTE: This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-252: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION
Sheraton Hotel at Torrey Pines Unit 2

COMMUNITY AREA
University

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director or Planning and Development Review or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

* ITEM-S400: Prohibiting Spectators at Illegal Speed Contests.

(See memorandum from City Attorney Gwinn dated October 16, 2002.)

CITY ATTORNEY'S RECOMMENDATION:

Introduction and adoption of the following ordinance:

(O-2003-70) ADOPTED AS ORDINANCE O-19116 (New Series)

Introduction and adoption of an Emergency Ordinance amending Chapter 5, Article 2, of the San Diego Municipal Code by adding a new Division 52, Titled "Spectators Prohibited at Illegal Speed Contests or Exhibitions of Speed" and by adding new Sections 52.5201, 52.5202, 52.5203, 52.5204 and 52.5205.

NOTE: 6 votes required pursuant to Sections 16 and 17 of the City Charter.

SUPPORTING INFORMATION:

Illegal street racing, also known as "drag racing," has been occurring in San Diego for decades. In 1960, 2,000 racers and spectators were involved in a "riot" on El Cajon Boulevard. During the 1970s, hundreds of racers and spectators continued to race on City roads, causing a major racing magazine to designate San Diego as one of the top street racing locations in the country. The numbers of racers and spectators slightly decreased during the 1980s to mid 1990s, and began to rise again in 1998, when estimates of 1,000 participants were common. Today, magazines and Internet sites continue to spotlight San Diego as a prime spot for illegal street racing in the nation.

The rise in popularity of illegal speed contests in San Diego has brought with it an increase in deaths related to racing. During a 120-day period from July 1998 to October 1998, there were an astonishing eight deaths and eleven injuries directly related to illegal street racing in San Diego County. During this time, police throughout the country, including the San Diego Police, attempted to alleviate the problem by strictly enforcing existing laws. The short-term effect was minimal, and there was no long-term impact.

Most recently, San Diego's illegal street racing fatality rate has been termed "epidemic." In 2002, there have been fifteen fatal accidents on City streets, with seven related to illegal street racing. Illegal street racing in the City has grown into a serious community problem, immediately threatening public peace, property, health and safety. In the late night and early morning hours, hundreds of illegal street racers and spectators converge on various public streets, primarily in commercial or industrial areas.

These juveniles and adults block the streets with their cars, set up improvised racetracks complete with individuals acting as race starters, and drag race until police arrive. When patrol cars descend on an illegal racing site, the racers and spectators jump back into their cars and caravan to other locations, where they race until the police catch up with them. The racers, traveling at high speeds from location to location, cause traffic congestion and danger to other drivers.

The racers are highly sophisticated, using cell phones, police scanners, and other electronic devices to communicate with each other to avoid arrest. They also communicate through the Internet, providing information on illegal racing events and advice on how to avoid detection and prosecution, often staying one step ahead of law enforcement.

Illegal street racing attracts other criminal activity-juvenile curfew violations, gambling, fights and disturbances, littering, drinking in public, urinating in public, trespassing, and vandalism, including graffiti and destruction of property. The San Diego Police Department regularly patrols racing sites and conducts undercover operations to curb the illegal racing.

However, police staffing is not always adequate to handle the enormous crowds that gather at the illegal racing sites. Furthermore, it takes high levels of police staffing and coordination to observe, arrest, and build strong cases against the illegal racers.

Attempts to eliminate the problem using speed bumps, tow-away zones, street closures, and other means have not provided a lasting solution. The presence of spectators at these events encourages criminal activity and creates an environment in which illegal activities flourish.

On September 25, 2002, the Public Safety and Neighborhood Services Committee reviewed a report outlining the purpose and background of the proposed ordinance along with the draft ordinance. Councilmembers from Districts 3, 4, 5, 6, and 8 voted unanimously in a 5-0 vote to accept the City Attorney's recommendations and approve the proposed ordinance.

On October 15, 2002, the City Council heard testimony and considered the proposed ordinance. In a unanimous vote, council members voted 9-0 in favor of the proposal. People are dying as a result of illegal street racing. In the three weeks between the ordinance being introduced at the Public and Safety and Neighborhood Services Committee on September 25, and the presentation to City Council on October 15, two more innocent lives were lost. This emergency measure is needed because of the immediate risk to public health and safety and the rising death toll.

Gwinn/Peter

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S401: USS San Diego Memorial Association Day.

MAYOR DICK MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-545) ADOPTED AS RESOLUTION R-297222

Proclaiming October 21, 2002 to be "USS San Diego Memorial Association Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A091-186.)

MOTION BY WEAR TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S402: Domestic Violence Awareness Month.

(Continued from the meeting of October 14, 2002, Item S402, at the request of Councilmember Atkins, a number of people from the public wanted to be in attendance and were unable to do so.)

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-487) ADOPTED AS RESOLUTION R-297223

Recognizing the effect that domestic violence has on the men, women, and children of San Diego across the nation and supporting and encouraging efforts to stop domestic violence in San Diego;

Recognizing the need to eradicate domestic violence in San Diego in order to improve the lives of all San Diegans, and proclaiming October 2002 to be "Domestic Violence Awareness Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A285-582.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S403: Lead Poison Prevention Taskforce.

COUNCILMEMBER INZUNZA'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-539) ADOPTED AS RESOLUTION R-297224

Proclaiming the week of October 21, 2002 to be "Lead Poisoning Awareness Week" in San Diego, and commending the participants of the City's Lead Poison Prevention Advisory Taskforce and the Environmental Services Department in working towards the goal of eliminating lead hazards from the housing in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B113-213.)

MOTION BY INZUNZA TO ADOPT. Second by Frye. Passed by the following vote:
Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-S404: Appointments and reappointments to the Commission for Arts and Culture.

(See memorandum from Mayor Murphy dated 10/15/2002 with resumes
attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-555) ADOPTED AS RESOLUTION R-297225

Council confirmation of the following appointments and reappointments by the
Mayor to serve as members of the Commission for Arts and Culture, for terms
ending as indicated:

<u>Name</u>	<u>Term Ending</u>
Courtney Ann Coyle (replacing S. Regina Smith, whose term has expired)	8/31/2003
Barbara Finn-Pressley (replacing Anthony Tri Tran, whose term has expired)	8/31/2004
Randy S. Robbins (replacing Dr. Roger Cornell, whose term has expired)	8/31/2004
Dorothy Annette (reappointment)	8/31/2004
Steve Estrada (reappointment)	8/31/2004

Steven L. Miller (reappointment)	8/31/2004
Iris Strauss (reappointment)	8/31/2004
Josephine Abbey Briggs (reappointment)	8/31/2004
Dr. Vivian Reznik - Chair (reappointment)	8/31/2004
Calvin Woo (reappointment)	8/31/2004

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S405: Formation of an Affordable Housing Task Force.

(See City Manager Report CMR-02-234, memorandums from Councilmember Peters dated 10/1/2002 and Councilmember Frye dated 9/20/2002, and letters from Matthew J. Adams dated 10/15/2002 and Michael Stepner dated 8/8/2002.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-557) ADOPTED AS RESOLUTION R-297226

Authorizing the City Manager to appoint an Affordable Housing Task Force considering representation from diverse interests and perspectives;

Directing the City Manager to report to the Council within six months of the Task Force's first meeting with a written report of recommendations to improve affordable housing options and strategies in the City of San Diego, consistent with other City Housing plans.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On 10/16/2002, RULES voted 5 to 0 to authorize the City Manager to appoint an Affordable Housing Task Force and direct the City Manager to return to Council within six months of their first meeting with a written report. (Councilmembers Wear, Atkins, Stevens, Madaffer and Mayor voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C128-219.)

MOTION BY INZUNZA TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-S406: Proposition 51 - November 2002 State Ballot Proposition.

(See memorandum from Andrew Poat dated 10/11/2002.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-563) ADOPTED AS RESOLUTION R-297227

Approving the Government Relations Department's recommendations regarding State Proposition 51 on the November 2002 ballot, outlined in the memorandum to the Honorable Mayor and Members of the City Council, dated October 11, 2002.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On 10/16/2002, RULES voted 5 to 0 to approve the City Manager's recommendations (opposition). (Councilmembers Wear, Atkins, Stevens, Madaffer and Mayor Murphy voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-nay, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-nay, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

*ITEM-S407: Amendment to the Retention Agreement with the Law Firm of Luce, Forward, Hamilton & Scripps LLP, for Litigation Services Related to the Ballpark & Redevelopment Project.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-526) ADOPTED AS RESOLUTION R-297228

Authorizing the amendment to the Retainer Agreement by and between the City of San Diego and the Law Firm of Luce, Forward, Hamilton & Scripps, LLP, for legal services concerning the Ballpark and Redevelopment Project increasing the authorized amount for that Agreement by \$150,000;

Authorizing the expenditure of an amount not to exceed \$150,000 from Fund 81140, Dept. 81140, Org. 3501, Object Account 4141, Job Order 081141, for the purpose of providing funds for the above project.

SUPPORTING INFORMATION:

The City previously entered into an agreement with the law firm of Luce, Forward, Hamilton & Scripps, LLP, for certain litigation services related to the Ballpark and Redevelopment Project. The original authorization was for \$75,000, which was subsequently increased to \$600,000. It is presently anticipated that expenditures will approach \$750,000 necessitating an additional \$150,000 related to concluding litigation related to the Ballpark Project.

Herring/Girard/JS

Aud. Cert. 2300382.

FILE LOCATION: MEET (64)

COUNCIL ACTION: (Tape location: B214-435.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

NONE.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 4:22 p.m. in honor of the memory of:

Martin Rye as requested by Council Member Peters;
Michael Cross as requested by Council Member Atkins;
Charles W. Ross as requested by Council Member Madaffer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: C637-D064).