

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, APRIL 12, 2004
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 2:13 p.m. Mayor Murphy recessed the meeting at 2:54 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 3:04 p.m. with Council Member Zucchet not present. Mayor Murphy recessed the meeting at 4:08 p.m. to convene the Redevelopment Agency and the Housing Authority thereafter. The regular meeting was reconvened by Mayor Murphy at 4:23 p.m. with all Council Members present. Deputy Mayor Atkins adjourned the meeting at 4:53 p.m. immediately into Closed Session in the twelfth floor conference room to discuss existing litigation and real property negotiation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour/Lane (pr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-not present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-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 Christopher Clark of Clairmont Southern Baptist Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION: MINUTES

ITEM 30: In the Matter of: Swearing in P. Lamont Ewell as City Manager.

SWORN IN

(Swearing in by San Diego City Clerk Charles G. Abdelnour.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:24 p.m.)

ITEM-31: Linda Crotsley Day.

COUNCILMEMBER LEWIS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-998) ADOPTED AS RESOLUTION R-299056

Commending Ms. Linda Crotsley for her twenty-one years of service and dedication to the City of San Diego;

Proclaiming April 12, 2004 to be "Ms. Linda Crotsley Day" in the City of San Diego in honor of her receiving the Fifth Annual City of San Diego Dr. Martin Luther King Jr., Sanitation Worker Award.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:34 p.m. – 2:40 p.m.)

MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-32: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED AS AMENDED

Approval of Council Minutes for the meetings of:

03/22/2004
03/23/2004

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:25 p.m.)

MOTION BY MADAFER TO APPROVE THIS ITEM AS AMENDED TO CORRECT THE MARCH 22, 2004 MINUTES TO REFLECT THAT HE WAS NOT PRESENT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

SPECIAL CLOSED SESSION ITEMS

- I. Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

Chargers Football Company, LLC v. City of San Diego
Los Angeles Superior Court No. BC 306 758

REFERRED TO CLOSED SESSION ON MONDAY, APRIL 12, 2004

This matter concerns the litigation filed by the San Diego Chargers (Chargers) against the City of San Diego (City), and the City's related cross complaint against the Chargers, over the validity of the "trigger" notice delivered to the City by the Chargers in March of 2003 pursuant to the 1995 agreement for the use of Qualcomm Stadium (1995 Agreement). In closed session, the City's outside litigation counsel and the City Attorney will report on the status of the litigation and the status of any discussions with the Chargers concerning a proposal made by certain private citizens to end the litigation and modify the 1995 Agreement.

The proposal made by the private citizens would generally 1) require the Chargers to play at Qualcomm Stadium through the 2008 season; 2) permit the Chargers to play at the stadium on a year-to-year basis thereafter, but the Chargers could terminate the lease and leave San Diego; 3) eliminate the "ticket guarantee"; 4) require the Chargers to pay a flat rent of \$2 million per year through the 2008 season, and for each season the Chargers play at Qualcomm Stadium thereafter; and 5) if the Chargers terminate the lease after the 2008 season, the Chargers would pay the remaining principle on the City's bonds issued to improve the stadium in 1997, with a reduction in that payment if the lease is not terminated until after the 2011 season.

II. Conference with Real Property Negotiator, pursuant to California Government Code section 54956.8:

- a.** Property: Qualcomm Stadium
- City Negotiator: Council Member Michael Zucchet, Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, Paul Jacobs, Esq., Daniel S. Barrett, and Robert J. Kheel
- Negotiating Party: City of San Diego and the San Diego Chargers
- Under Negotiation: Real Property Interests at the Qualcomm Stadium site pursuant to the recommendations of the Citizens Task Force on Chargers Issues, and pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

This matter involves negotiations authorized by the City Council in March of 2003 between the City of San Diego (City) and San Diego Chargers (Chargers) regarding the Qualcomm Stadium site, pursuant to both the recommendations of the Citizens Task Force on Chargers Issues and the “Trigger Notice” sent to the City by the Chargers in March of 2003.

In closed session, the City’s negotiating team will report to the City Council on the status of any discussion with the Chargers concerning a proposal made by certain private citizens to end the current litigation between the City and the Chargers, and modify the 1995 agreement for the use of Qualcomm Stadium by the Chargers. Please see the description on the closed session agenda under “pending litigation” – *Chargers LLC v. City* for a description of the proposal made by the private citizens.

Pursuant to the new temporary Council Rule on closed sessions, the public will have the opportunity to comment on these matters during the regular open session of the City Council on April 12, 2004. The open session agenda for that day will reflect the appropriate open session item for public comment. The special closed session called pursuant to this memorandum may continue into Tuesday, April 13, 2004.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:05 p.m. – 3:59 p.m.)

Mayor Murphy closed the Hearing.

SPECIAL CLOSED SESSION PUBLIC TESTIMONY:

SPECIAL CLOSED SESSION COMMENT-1:

Comment by Phil Hart regarding his opposition to the proposal for the Chargers.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:10 p.m. – 3:13 p.m.)

SPECIAL CLOSED SESSION COMMENT-2

Comment by Michael Marrero regarding City financing of the Chargers.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:14 p.m. – 3:16 p.m.)

SPECIAL CLOSED SESSION COMMENT-3:

Comment by David Rees regarding the condition of Qualcomm Stadium.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:16 p.m. – 3:18 p.m.)

SPECIAL CLOSED SESSION COMMENT-4:

Comment by Jarvis Ross regarding the contract for the Chargers to the year 2020.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:19 p.m. – 3:21 p.m.)

SPECIAL CLOSED SESSION COMMENT-5:

Comment by Andrew Trevisani regarding the City giving land away.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:21 p.m. – 3:22 p.m.)

SPECIAL CLOSED SESSION COMMENT-6:

Comment by Herb Klein regarding his role in bringing the Chargers to San Diego and being in favor of a new stadium.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:22 p.m. – 3:25 p.m.)

SPECIAL CLOSED SESSION COMMENT-7:

Comment by Duane Roth regarding holding public hearings.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:26 p.m. – 3:26 p.m.)

SPECIAL CLOSED SESSION COMMENT-8:

Comment by Aaron Harrison regarding being in favor of the Chargers' proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:26 p.m. – 3:27 p.m.)

SPECIAL CLOSED SESSION COMMENT-9:

Comment by John Hawkins regarding consideration of the Chargers' proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:27 p.m. – 3:30 p.m.)

SPECIAL CLOSED SESSION COMMENT-10:

Comment by Bruce Binkowski regarding the benefits and profits of hosting the Holiday Bowl in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:30 p.m. – 3:31 p.m.)

SPECIAL CLOSED SESSION COMMENT-11:

Comment by Steve Becvar regarding football at SDSU and all the uncertainties.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:31 p.m. – 3:32 p.m.)

SPECIAL CLOSED SESSION COMMENT-12:

Comment by Joe Moeller encouraging the review of the Business and Labor Coalition proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:32 p.m. – 3:35 p.m.)

SPECIAL CLOSED SESSION COMMENT-13:

Comment by Dan Novak urging Council to accept the Chargers' proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:35 p.m. – 3:37 p.m.)

SPECIAL CLOSED SESSION COMMENT-14:

Comment by Alan Kidd regarding his support for a strong Mayor form of government, and that he supports the Chargers' proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:37 p.m. – 3:39 p.m.)

SPECIAL CLOSED SESSION COMMENT-15:

Comment by Eric Aalto regarding the possibility of the Chargers leaving San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. – 3:40 p.m.)

SPECIAL CLOSED SESSION COMMENT-16:

Comment by Bill Hamlin regarding the poor condition of Qualcomm Stadium and the Chargers creating jobs in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:40 p.m. – 3:42 p.m.)

SPECIAL CLOSED SESSION COMMENT-17:

Comment by Max Gelwix regarding the Chargers' proposal being fiscally responsible.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:42 p.m. – 3:43 p.m.)

CLOSED SESSION ITEMS

- I.** Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

- a.** *Archer Western Pacific v. City of San Diego*
San Diego Superior Court No.

DCA Assigned: Armando Mendez

REFERRED TO CLOSED SESSION ON TUESDAY, APRIL 13, 2004

This matter involves a dispute between the City of San Diego [City] and Archer Western, LLP [AW] regarding the design and construction of the Rancho Bernardo Pipeline No. 2 and Black Mountain Ranch Reclaimed Water Pipeline Project. Pursuant to a design-build contract, AW prepared plans for a new water supply line which called for the line to cross under a pre-existing water supply line. AW's plans would have resulted in the exposure of that pre-existing line and the temporary removal of its foundational support. In order to ensure protection of the pre-existing line, City staff recommended a more expensive tunneling approach.

AW proceeded with the City recommended approach and pursuant to contract requirements requested additional compensation. The City declined the request. After all contractual dispute resolution procedures were exhausted without a settlement, AW filed suit against the City claiming \$266,578 in damages for the cost of the extra work. In closed session the City Attorney will discuss the status of the litigation and request direction on a potential settlement of the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:42 p.m. – 4:43 p.m.)

Mayor Murphy closed the Hearing.

- b. *Border Business Park v. City of San Diego*
Appellate Case No. D039225; SDSC Case No. GIC 692794
Otay Acquisitions v. City of San Diego
SDSC Case No. GIC 753247
National Enterprises, Inc. v. City of San Diego
SDSC Case Nos. GIC 791407; GIC 805465

ACA Assigned: Les Girard

REFERRED TO CLOSED SESSION ON TUESDAY, APRIL 13, 2004

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The *Border Business Park* case resulted in a jury verdict against the City which is now on appeal. The *National Enterprises* and *Otay Acquisitions* cases are currently awaiting trial in the Superior Court. In closed session, the City Attorney will report on the status of on-going settlement negotiations and request further direction regarding those negotiations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:42 p.m. – 4:43 p.m.)

Mayor Murphy closed the Hearing.

- c. *State of California v. City of San Diego*
U.S. District Court No. 03-CV-1381-B

DCA Assigned: Ted Bromfield

**MAYOR MURPHY ANNOUNCED THAT THIS ITEM HAS BEEN
RESCHEDULED TO A LATER DATE**

The Regional Water Quality Control Board [Regional Board] initiated this case on July 3, 2003, in conjunction with a companion action filed by the United States, seeking remedies and penalties for sanitary sewer overflows from December 1996 to the present. The City has consolidated these two cases with a private action filed by BayKeeper/Surfrider Foundation and has been pursuing a consent decree that would resolve all actions. In the Regional Board action, the complaint focuses on sewer overflows that amount to approximately 2.7 million gallons. This amount was increased on February 22, 2004, when the City experienced a 4.6 million gallon spill into San Diego Bay caused by rocks clogging a sewer line near the Naval Medical Center.

The City Attorney will discuss the strengths and weaknesses of the City's position and seek authorization to make a settlement offer to resolve all spills through date of settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:44 p.m. – 4:44 p.m.)

- d. *Arena Group 2000 v. City of San Diego*
San Diego Superior Court No. GIC 825645

DCA Assigned: David King

REFERRED TO CLOSED SESSION ON TUESDAY, APRIL 13, 2004

This matter is an action for breach of contract filed by Arena Group 2000 [AG] against the City of San Diego [City] regarding the lease of the Sports Arena by AG from the City. AG filed a complaint against the City based upon the City's failure to approve auto sales on the Sports Arena site, activity AG contends is permitted under the lease. In closed session, the City Attorney will report on the status of the litigation, discuss strategy regarding its progress, and seek any appropriate direction from the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:44 p.m. – 4:44 p.m.)

Mayor Murphy closed the Hearing.

II. Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code section 54956.9(b):

a. *Tusch Derbonne v. City of San Diego*

HDCA Assigned: Prescilla Dugard

REFERRED TO CLOSED SESSION ON TUESDAY, APRIL 13, 2004

This matter involves a dispute between the City of San Diego [City] and Tusch Derbonne [TD] regarding rent increases in a lease between the City and TD for property located at 3940 Hancock Street. The lease provides for periodic upward adjustments in the rent paid to the City based upon different factors. The City and TD disagree as to the interpretation of language regarding the timing of payments called for in the periodic increases. In closed session, the City Attorney will ask for direction concerning a proposed settlement of the dispute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:44 p.m. – 4:45 p.m.)

Mayor Murphy closed the Hearing.

III. Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

Agency negotiators: Lamont Ewell, Cathy Lexin, Mike McGhee

Employee organizations: Municipal Employees Association, Local
127 AFSCME, AFL-CIO, Local 145
International Association of Firefighters

AFL-CIO, San Diego Police Officers
Association

REFERRED TO CLOSED SESSION ON TUESDAY, APRIL 13, 2004

In closed session, the City's negotiating team will review with the City Council the City's position with respect to: 1) health benefit plans, and 2) retirement survivor benefits and family leave benefits for domestic partners, and request instructions from the City Council as to those matters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:45 p.m. – 4:45 p.m.)

Mayor Murphy closed the Hearing.

* ITEM-50: Approving the Eighth Amendment to the Redevelopment Plan for the Centre City Redevelopment Project.

(Centre City Redevelopment Project. District-2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/23/2004. (Council voted 7-1. Councilmember Frye voted nay. Councilmember Madaffer not present):

(O-2004-114) ADOPTED AS ORDINANCE O-19270 (New Series)

Approving and adopting the Eighth Amendment to the Redevelopment Plan for the Centre City Redevelopment Project.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-51: Amending the San Diego Municipal Code relating to the Marina Planned District Ordinance.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/23/2004 (Council voted 7-1. Councilmember Frye voted nay. Councilmember Madaffer not present.):

(O-2004-111 Cor.Copy) ADOPTED AS ORDINANCE O-19271 (New Series)

Amending Chapter 10, Article 3, Division 20, of the San Diego Municipal Code, by amending Section 13.2011, relating to the Marina Planned District Ordinance.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-52: Proposed Ninth Amendment to the Redevelopment Plan for the Centre City Redevelopment Project.

(Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project. District-2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/23/2004 (Council voted 7-1. Councilmember Frye voted nay. Councilmember Madaffer not present.):

(O-2004-112) ADOPTED AS ORDINANCE O-19272 (New Series)

Approving and adopting the Proposed Ninth Amendment to the Redevelopment Plan for the Centre City Redevelopment Project (The "KUSI Mixed Use Development Amendment").

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-53: Rhodes Crossing Rezone.

(Rancho Peñasquitos and Torrey Highlands Community Plan Areas. (District-1.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/30/2004. (Council voted 9-0):

(O-2004-108) ADOPTED AS ORDINANCE O-19273 (New Series)

Rezoning 147.39 acres, located within the Rancho Peñasquitos Community Plan Area and the Torrey Highlands Subarea Plan, in the City of San Diego, California, from the AR-1-1 and RS-1-14 Zones (Previously Referred to as the A1-10 and R1-5000 Zones) into the RS-1-14, RM-3-9, CR-2-1 and CC-1-3 Zones (previously referred to as the R1-5000, R-600, and CA Zones), as defined by San Diego Municipal Code Sections 131.0403, 131.0406, 131.0503 and 131.0507.

FILE LOCATION: LUP – Rhodes Crossing (65)

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-54: Exempting a Program Coordinator Position in the San Diego City Employees' Retirement System from the Classified Service.

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2004-117) INTRODUCED, TO BE ADOPTED ON MONDAY,
APRIL 26, 2004

Introduction of an Ordinance exempting a Program Coordinator position in the San Diego City Employees' Retirement System from Classified Service to Unclassified Service.

CITY MANAGER SUPPORTING INFORMATION:

On March 4, 2004, the Civil Service Commission reviewed a request of the retirement Administrator to exempt a Program Coordinator from the Classified Service. This position participates in critical management decisions, and is accountable for developing and implementing policies and written procedures associated with SDCERS long-range strategic plan and Business Plan. Two long-range goals of the System include enhancing staff training to ensure more accurate and timely delivery of our services to City employees, and improving our communication to new hires, existing employees and retirees through effective communications.

The Program Coordinator is responsible for developing and implementing written procedures that staff will rely on to administer a very complex retirement program. These procedures include interface with the City's payroll system as well as efficiently utilizing the SDCERS Membership Benefits System. In addition, the position oversees all communications sent out by SDCERS including the quarterly Newsletter and the materials used in pre-retirement seminars and new hire orientations. Finally, the position is responsible for developing, enhancing and maintaining the SDCERS website (www.sdcers.org).

SDCERS is a \$3.2 billion Retirement Fund servicing approximately 17,000 active and retired members. The System operates with an annual Administrative budget of nearly \$7 million, and employs 54 staff.

Lexin/Grissom/LD

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO INTRODUCE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchett-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-100: Inviting Bids for the General Requirements Contract 2004A – General Engineering Contract for As-Needed Construction Services.

(See memorandum from Scott Tulloch dated 3/8/2004.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-925 Rev.) ADOPTED AS RESOLUTION R-299057

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental for General Requirements Contract 2004A – General Engineering Contract, on Work Order No. 461190;

Authorizing the City Manager to execute a contract with the lowest responsible and reliable bidder, for as-needed construction services for a \$50,000 minimum, not to exceed the value of \$2,000,000 for one year;

Authorizing the expenditure of an amount not to exceed \$2,000,000 from Fund Nos. 41506, 41508, and 41509, solely and exclusively, to provide funds for the General Requirements Contract 2004A – General Engineering, 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 to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.
(BID-K04106)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 3/17/2004, NR&C voted 4 to 0 to approve. (Councilmembers Zucchett, Lewis, Frye, and Madaffer voted yea. Councilmember Inzunza not present.)

CITY MANAGER SUPPORTING INFORMATION:

For the last eighth years, the City has entered into General Requirements Contracts (GRCs), formerly referred to as Job Order Contracts (JOC) with various contractors. The main objective of the GRC is to execute emergency maintenance, repair, and general engineering construction projects.

MWWD issues four types of GRCs: General Engineering, Building Modifications, Electrical Systems, and Mechanical Systems. The work is assigned to one of the contracts based on the type of work and the location of the facility. This action is for approval to advertise and award General Requirements Contract 2004A – General Engineering, in an amount not to exceed \$2,000,000.

Each GRC is competitively procured. The contractor bids a factor or multiplier which is applied to all of the prices in a unit price book, which is part of the contract documents. The contractor with the lowest factor and a responsive, responsible bid is awarded the contract. The City is under no obligation to pay the contractor any more than a \$50,000 minimum contract obligation. Therefore, the contractor has an incentive to deliver quality work in a timely fashion in order to get additional work.

The specific tasks to be executed under this contract have not been identified. All tasks are executed in accordance with the California "Subletting and Subcontracting Fair Practices Act" (Public Contract Code Section 4100 et seq.). Under this contracting system, a contractor that conducts or participates in bid shopping or bid peddling shall not receive any additional tasks under this contract, and such conduct shall be grounds for default by the City. The continuation of the GRC will enable the Metropolitan Wastewater Department to achieve its objective of rapidly engaging contractors in critical and necessary work while lowering costs.

FISCAL IMPACT:

Funds in the amount of \$2,000,000 for this contract are available in Fiscal Year 2004.

Mendes/Tulloch/LAD

FILE LOCATION: CONT – Ahrens Corporation; W. O. 461190

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-101: Ladera Street Beach Access Stairway Restoration Project.

(Peninsula Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1023) ADOPTED AS RESOLUTION R-299058

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$50,000 from CIP-21-857.3, Ski Beach Parking and Boat Ramp Improvements, to CIP-29-856.0, Ladera Street Beach Access Stairway Restoration, within Fund No. 630221, Park and Recreation Grant Match Funds;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$50,000 from CIP-29-856.0, Ladera Street Beach Access Stairway Restoration, within Fund No. 630221, Park and Recreation Grant Match Funds, 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.

CITY MANAGER SUPPORTING INFORMATION:

The project is located at the corner of Sunset Cliffs Boulevard and Ladera Street in the Peninsula Community Area. The proposed project includes restoration of the existing beach access stairway, an entrance walkway, new stair sections, and new landings at the bottom. The project was advertised and Gulf Engineering and Construction has been recognized as the apparent low bidder. Funds are available to award the base bid project. However, in order to enhance the longevity of the project and minimize maintenance obligations, an additional \$50,000 is being requested to include bid alternate #2. This alternative would substitute the base bid specification of galvanized guardrails for the more desirable stainless steel option.

FISCAL IMPACT:

The total construction cost for this project is estimated to be \$306,500. Additional funds in the amount of \$50,000 are available in CIP-21-857.3, Ski Beach Parking and Boat Ramp Improvements, Fund No. 630221, Grant Match.

Herring/Oppenheim/AP

Aud. Cert. 2400939.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:59 p.m. – 4:01 p.m.)

MOTION BY ZUCCHET TO ADOPT THE RESOLUTION AND TO DIRECT STAFF TO INVESTIGATE THE INSTALLATION OF AN EMERGENCY CALL BOX AS PART OF THE PROJECT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-102: Acceptance and Authorization to Expend Transportation Development Act/Transnet Funding for 8 Bicycle and Pedestrian Projects.

(Midway, Mira Mesa, Mission Bay Park, Mission Valley, Pacific Beach, Rancho Penasquitos, San Ysidro, and Southeastern San Diego Community Areas. Districts-1, 2, 4, 5, 6, and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-941) ADOPTED AS RESOLUTION R-299059

Authorizing the City Manager to accept, appropriate, expend, and to take all necessary actions to secure a total of \$179,800 in Transportation Development Act/Local Transportation Fund (TDA/LTF) and \$588,243 in TransNet Bikeway funds from SANDAG for seven bicycle projects and a pedestrian project;

Authorizing the City Auditor and Comptroller to establish special interest-bearing account Fund 390067 for SANDAG FY 2004 claim 366 of TDA funds and TransNet funds;

Authorizing the City Auditor and Comptroller to add CIP-58-173.0, San Diego River Bike Path Bridge Study (Qualcomm Way, Camino del Este, Mission Center Road, Avenida del Rio, Fashion Valley Road); CIP-58-174.0, I-805 Bike Path Study (Mira Mesa Boulevard to Miramar Road); CIP-58-175.0, Pacific Highway and Barnett Avenue Interchange Study; CIP-58-176.0, Darkwood Canyon Connector Study for SR-56 Bike Path, to Fiscal Year 2004 Capital Improvement Program;

Authorizing the City Auditor and Comptroller to increase by \$179,000 the Fiscal Year 2004 Capital Improvements Program (CIP) budget in Fund 390067, TDA funds for: CIP-52-724.0, Sidewalk for Gompers and Horton School Area (\$49,800) (Southeastern San Diego/District 4); CIP-58-173.0, San Diego River Bike Path Bridge Study (\$50,000) (Mission Valley/District 6); CIP-58-174.0, I-805 Bike Path Study (\$40,000) (Mira Mesa/District 5); and CIP-58-175.0, Pacific Highway and Barnett Avenue Interchange Study (\$40,000) (Midway/District 2);

Authorizing the City Auditor and Comptroller to increase by \$588,243 the Fiscal Year 2004 CIP Budget Fund 30301, TransNet funds in: CIP-58-156.0, Ocean Beach Bike Path Extension Design, (Pacific Highway to Hotel Circle North) (\$150,000) (Mission Valley/District 6); CIP-58-147.0, Rose Creek Bike /Pedestrian Bridge (\$250,000) (Mission Bay Park, Pacific Beach/Districts 2 and 6); CIP-58-168.0, San Ysidro POE Bicycle Parking Improvements, (\$138,243) (San Ysidro/District 8); CIP-58-176.0, Darkwood Canyon Connector Study for SR-56 Bike Path (\$50,000) (Rancho Penasquitos/District 1);

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$179,800 from CIP-52-724.0, Sidewalk for Gompers and Horton School Area, Fund 390067, (TDA funds - \$49,800) for the purpose of designing pedestrian related improvements; CIP-58-173.0, San Diego River Bike Path Bridge Study, Fund 390067, (TDA funds - \$50,000) for the purpose of conducting a feasibility study and cost estimate; CIP-58-174.0, I-805 Bike Path Study, Fund 390067, (TDA funds - \$40,000) for the purpose of conducting a feasibility study, preliminary design, and cost estimate; and CIP-58-175.0, Pacific Highway and Barnett Avenue Interchange Study, Fund 390067, (TDA funds -

\$40,000) for the purpose of conducting a feasibility study, preliminary design, and cost estimate;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$588,243 from CIP-58-156.0, Ocean Beach Bike Path Extension Design, Fund 30301, (TransNet funds - \$150,000) for the purpose of designing the facility; CIP-58-147.0, Rose Creek Bike/Pedestrian Bridge, Fund 30301, (TransNet funds - \$250,000) for the purpose of designing the bridge; CIP-58-168.0, San Ysidro POE Bicycle Parking Improvements, Fund 30301, (TransNet Funds - \$138,243); and CIP-58-176.0, Darkwood Canyon Connector Study for SR-56 Bike Path, Fund 30301, (TransNet funds - \$50,000) for the purpose of conducting a feasibility study, preliminary design, and cost estimate;

Authorizing the City Auditor and Comptroller to transfer \$49,800 from CIP-68-017.0, School Traffic Safety Improvements, Fund 30300, TransNet, to CIP-52-724.0, Sidewalk for Gompers and Horton School Area, as the City's match to Safe Routes to School grant funding (\$448,200) awarded to the City in November of 2002;

Authorizing the City Auditor and Comptroller to appropriate and expend \$49,800 from CIP-52-724.0, Sidewalk for Gompers and Horton School Area, Fund 30300, TransNet, for the purpose of designing pedestrian related improvements;

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

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego has applied for and received approval from SANDAG for eight pedestrian/bicycle projects to study and improve pedestrian and bicycle access in the amount of \$179,800 from Transportation Development Act/Local Transportation Fund (TDA/LTF) and \$588,243 TransNet Bikeway funds. This will fund these various projects and depending on the project will provide design studies and cost estimates for pedestrian/bike paths, pedestrian/bike path bridges, bike parking, project construction, and pedestrian sidewalk improvements.

The projects to be funded through this action include:

CIP 527240: Sidewalk for Gompers and Horton School Area - \$49,800 (Southeastern San Diego/District 4).

CIP 581730: San Diego River Bike Path Bridge Study - \$50,000 (Mission Valley/District 6).

CIP 581740: I-805 Bike Path Study - \$40,000 (Mira Mesa/District 5).

CIP 581750: Pacific Highway and Barnett Avenue Interchange Study - \$40,000
(Midway/District 2); and

CIP 581560: Ocean Beach Bike Path Extension Design (Pacific Highway to Hotel Circle North)
\$150,000 (Mission Valley/District 6).

CIP 581470: Rose Creek Bike/Pedestrian Bridge - \$250,000 (Mission Bay Park, Pacific
Beach/Districts 2 and 6)

CIP 581680: San Ysidro POE Bicycle Parking Improvements - \$138,243 (San Ysidro/District 8).

CIP 581760: Darkwood Canyon Connector Study for SR-56 Bike Path - \$50,000
(Rancho Penasquitos/District 1); and

The City of San Diego had applied to SANDAG for funding of seventeen bicycle and pedestrian projects. The geographical locations of these proposed projects were throughout the City. SANDAG approved funding for the eight projects described. Staff will be re-submitting the unapproved projects as well as others when SANDAG requests applications in the future.

FISCAL IMPACT:

Adding up to \$768,043 with \$179,800 in TDA/LTF and \$588,243 TransNet funds from SANDAG. Job order number for \$49,800 under CIP-68-017.0 is 680171.

Loveland/Belock/PB

Aud. Cert. 2400921.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-103: Developer Impact Fees Fiscal Year 2003 Annual Report.

(See City Manager Report CMR-04-071.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-816) ADOPTED AS RESOLUTION R-299060

Declaring that City Council has reviewed and accepts the Developer Fees FY 2003 Annual Report;

Declaring that City Council finds, with respect to funds reflected in the Developer Fees FY 2003 Annual Report as having been collected over five years before June 30, 2003, and as stated in Attachment 6 of the Developer Fees FY 2003 Annual Report, that the documentation: (1) Identifies the purpose to which the fee is to be put; (2) Demonstrates a reasonable relationship between the fee and the purpose for which it is charged; and (3) Identifies sources and amounts of funding anticipated to complete financing of incomplete improvements and the approximate dates on which such funding is expected to be deposited into the appropriate fund.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-104: Park Reimbursement Agreement with Torrey Ranch II, LLC for the Torrey Highlands Neighborhood Park One (South).

(Torrey Highlands Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1014) ADOPTED AS RESOLUTION R-299061

Authorizing the City Manager to execute the Park Reimbursement Agreement for Torrey Highlands Neighborhood Park No. One (South), with Torrey Ranch II, LLC;

Authorizing the expenditure of an amount not to exceed \$1,516,433.65 from CIP-29-547.0, Torrey Highlands Neighborhood Park South, Torrey Highlands Facilities Benefit Assessment, Fund No. 79015, for the purpose of providing funds for the above referenced Agreement, contingent upon certification by the City Auditor and Comptroller that the revenues are available at the time reimbursement is scheduled for the Project.

CITY MANAGER SUPPORTING INFORMATION:

The proposed Torrey Highlands Neighborhood Park No. One (South) is approximately 5.0 acres in size and located within the Torrey Highlands Community (Subarea IV). Execution and implementation of this proposed Park Reimbursement Agreement between the City of San Diego and Torrey Ranch II, LLC (Subdivider) will satisfy Condition No. 34 a-e and g of the Torrey Ranch Tentative Map (TM No. 7497) approved by City Council on September 24, 2002, Resolution No. R-297094.

The Subdivider will advance the funds to construct the rough grading, street improvements and associated utilities to serve the park. The Subdivider will be reimbursed for design and construction per the agreement in either Facilities Benefit Assessment credit or cash. Cash reimbursements will occur as provided for in the current Torrey Highlands Public Facilities Financing Plan (PFFP), or as cash becomes available if not available when allowed for by the PFFP. The PFFP allows for reimbursement by Fiscal Year 2009.

FISCAL IMPACT:

All approved costs associated with the design and construction of this project are funded through the Torrey Highlands Facilities Benefit Assessment, Fund No. 79015. Annual maintenance costs are estimated to be \$4,000 until full development of the park which is scheduled in Fiscal Year 2007. The funding for these costs will be requested as a new Park and Recreation facility in the fiscal year budget process in which the project is complete.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-105: Consultant Agreement with Fuscoe Engineering Company for the San Diego Regional Public Safety Training Institute Joint Powers Authority.

(See City Manager Report CMR-04-072. District-7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-988) **RETURNED TO THE CITY MANAGER**

Declaring that the development of the San Diego Regional Public Safety Training Institute (RPSTI) emergency vehicle training course will be tracked through CIP-36-064, and that CIP-36-066 will be dissolved;

Authorizing the City Auditor and Comptroller to appropriate \$4,167 from the Fire Rescue Department operating budget and \$4,167 from the Police Department operating budget into CIP-36-064, Fund 630221 contributions from the 100 Fund;

Authorizing the City Manager to accept \$8,333 from the County of San Diego and \$8,333 from the San Diego Community College District to be deposited into Fund 63022, Private and Other Contributions – CIP;

Authorizing the City Auditor and Comptroller to appropriate \$16,666 from Fund 63022 into CIP-36-064, Police Department: Police and Fire Training Facility – Regional Public Training Institute;

Authorizing the \$25,000 increase in the Fiscal Year 2004 CIP budget in CIP-36-064.0, Police and Fire Training Facility – Regional Public Safety Training Institute, Fund 63022, and Fund 630221;

Authorizing the City Manager to enter into an agreement with Fuscoe Engineering Company to provide professional consulting services for the RPSTI JPA, specifically to complete “Tier Two” of the application process with the

United States Marine Corps in furtherance of using land at Miramar for an emergency vehicle training course;

Authorizing the expenditure of funds not to exceed \$95,000 from CIP-36-064, Police Department: Police and Fire Training Facility – Regional Public Safety Training Institute, Fund 630221 contributions from the General Fund, and Fund 63022, Private and Other Contributions – CIP, for the purpose of executing a consulting agreement with Fuscoe Engineering for environmental and land use planning for an emergency vehicle operations course on USMCAS Miramar property, contingent upon receipt of funds from San Diego County and the San Diego College District;

Authorizing the City Auditor and Comptroller to reduce the current encumbrance in CIP-36-064 for Rick Engineering from \$480,000 to \$410,000, to accurately reflect the final contract cost and to allocate the difference of \$70,000 to offset the cost of contracting with Fuscoe Engineering.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO RETURN THIS ITEM TO THE CITY MANAGER AT HIS REQUEST FOR FURTHER REVIEW. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: YWCA Lease – Cortez Hill Transitional Housing.

(Cortez Hill Community Area. District-2.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1012) ADOPTED AS RESOLUTION R-299062

Authorizing the City Manager to execute a lease agreement with the YWCA, for the management and operation of the Cortez Hill Homeless Family Facility at 1449 Ninth Avenue for an initial term of five years with three addition five-year options to extend, at a rent of \$1 per year plus administrative cost recovery.

CITY MANAGER SUPPORTING INFORMATION:

In April 2001, the City purchased the former Day's Inn Motel at 1499 Ninth Avenue for future use as a homeless shelter. It has been managed and operated by the YWCA as a homeless transitional shelter after the \$3,859,200 renovation of the property was completed in December 2002. The YWCA is a nonprofit organization which has provided social services to families in San Diego since 1903, and now currently offers domestic violence prevention, childcare, legal and counseling services, teen educational services, and a full range of transitional housing services including case management. The YWCA program will serve up to 150 parents and children in 47 living units on site. The homeless program will operate in a year-round basis, and participants will be drawn from all areas of San Diego County. The program is designed to promote self-sufficiency, assist in securing long term stable housing, and work with the families to stabilize family dynamics.

The YWCA and the City propose to enter into a long-term lease agreement with an initial five-year term, and three five-year options. Rent will be nominal at \$1 per year, and lease administrative cost recovery will be \$2,562 per year, adjusted annually via the CPI. With the approval of the long-term lease, the YWCA will continue to provide a full range of homeless shelter and transitional services at the site.

Current Fair Market Value of the property is estimated to be \$2,500,000 by City Valuations staff. Fair Market Annual Rental value is estimated to be in the \$290,000 to \$320,000 range.

FISCAL IMPACT:

The amount of \$2,562, subject to annual CPI adjustments, will be deposited annually into General Fund revenue account no. 77444.

Herring/Griffith/ACG

FILE LOCATION: LEAS-YWCA Lease – Cortez Hill Transitional Housing

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-107: Relocation of 12-Inch Water Main at Mira Mesa Blvd. with Caltrans.

(See memorandum from Larry Gardner dated 3/9/2004. Mira Mesa Community Area. District-5.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1018) ADOPTED AS RESOLUTION R-299063

Authorizing the City Manager to execute the Amended Utility Agreement No. 31620 (Amended Agreement);

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$49,103 from Water Fund 41500, CIP-73-277.0, Annual Allocation – Standpipes and Reservoirs Rehabilitation, to Water Fund 41500, CIP-73-024.0, Annual Allocation – Freeway Relocations;

Authorizing the City Auditor and Comptroller to expend an additional amount not to exceed \$94,352 from Water Fund 41500, CIP-73-024.0, Annual Allocation – Freeway Relocations, for the purpose of funding in-house engineering costs and the Amended Agreement;

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 3/17/2004, NR&C voted 3 to 1 to approve. (Councilmembers Zucchet, Frye, and Madaffer voted yea. Councilmember Lewis voted nay. Councilmember Inzunza not present.)

SUPPORTING INFORMATION:

This request is for approval to execute Amended Utility Agreement Number 31620 with the State of California and reimburse the State for the actual construction cost of \$135,017 for relocating a City water main.

In January 2003, the City executed Utility Agreement Number 31620, allowing the State to prepare plans to relocate a 12-inch water main along Mira Mesa Boulevard at the Interstate 15 (I-15) bridge. The Utility Agreement also required the City to reimburse the State in the amount of \$29,700 for the design and construction costs of the 12-inch water main.

The City is responsible for paying the costs associated with relocating the water main under Section 673 of the Street and Highway which requires the owner of a facility to pay relocation costs when the state hold prior rights to a right of way. Upon Caltrans completion of the bridge widening design, the extent of the work was greater than expected increasing the costs from \$29,700 to \$83,699.45. During construction, a broken drain valve was discovered. The Water Department directed Caltrans to replace it which included dewatering the line, installing a new valve, modifying the alignment and installing additional pipe. This change order added \$51,412.06 to the total project cost, Construction costs and replacement of the drain valve resulted in overall project costs increasing to \$135,017.

FISCAL IMPACT:

The total cost of this project is \$159,206. Funding of \$64,854 was previously authorized by City Manager's Action C-11882. This request is authorizing additional expenditures of \$94,352 from Water Fund 41500, CIP-73-024.0, Annual Allocation - Freeway Relocations.

Mendes/Gardner/TV

Aud. Cert. 2400934.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-108: Grant Application to the California Office of Emergency Services (OES) for the Open Space Brush Management Program.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-961) ADOPTED AS RESOLUTION R-299064

Authorizing the City Manager to apply to the California Office of Emergency Services (OES) for the Open Space Brush Management Program (Grant Program);

Authorizing the City Manager to take all necessary actions to secure the Grant and to negotiate and execute all agreements necessary to comply with the OES's grant requirements;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend the Grant, if it is secured;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing fund for the Grant;

Authorizing the City Auditor and Comptroller, upon receipt of a fully executed grant agreement, to appropriate and expend \$120,000 from Fund 105051, Dept. 9321, Org. 2004, Environmental Growth Fund; \$400,000 from Fund 100, Dept. 449, Org. 2600, Park and Recreation General Fund; and \$391,955 from Fund 630221, CIP-20-013.0, Park and Recreation Grant Match Funding, to complete the Open Space Brush Management Program.

CITY MANAGER SUPPORTING INFORMATION:

The State of California Office of Emergency Services (OES) administers the Hazard Mitigation Grant Program (HPMG) to channel Federal Emergency Management Administration (FEMA) funds to disaster areas. OES announced funding for eligible fire prevention programs related to the California firestorms of 2003 (DR-1498).

This action authorizes the Manager to apply for funding for one-year program costs to implement a proposed 100-foot brush management area in the City's open space for defense against impending fire. Of the 22,600 acres of open space land the City owns, an estimated 1,750 acres interface with structures. To manage the open space brush effectively, an estimated 875 of these

urban wildland interface acres should be thinned each year. At the City's current budget levels only 70 acres of brush is thinned each year.

The City cannot keep up with the current program requirements, and thinning additional acres to meet the proposed 100-foot from structure open space brush management requirement recommended by the Fire Chief will place an impossible demand on the budget.

The California Office of Emergency Services (OES) invited the five counties affected by the firestorms (Los Angeles, Riverside, San Bernardino, San Diego, and Ventura) to submit a notice of interest (NOI) for projects that meet program eligibility requirements and the pre-established state priorities. The City submitted an NOI for the Open Space Brush Management Program and on January 20, 2004 received notification that the proposal is eligible and consistent with the program priorities. The State OES advises that applications will be reviewed as received and forwarded to FEMA for potential funding.

FISCAL IMPACT:

HMGP grants are provided on a cost-share basis of 75 percent federal share and 25 percent non-federal share. The City will provide a 25% match as follows: \$120,000, current (FY 2004) Environmental Growth Fund; \$336,097, Park and Recreation Department's annual allocation for open space brush management (FY 2005); \$400,000, current (FY 2004) Park and Recreation Department general fund savings; and \$391,955, current (FY 2004) Park & Recreation Department Grant Match Funding, CIP 20-013.0.

Herring/Oppenheim/AH

Aud. Cert. 2400926.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-109: Easement Grant to SDG&E at Montgomery Field Airport.

(Kearny Mesa Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-995) ADOPTED AS RESOLUTION R-299065

Authorizing the City Manager to convey an easement for utility purposes to the San Diego Gas and Electric Company affecting a portion of Lot 25 of New Riverside Map 679 at Montgomery Field Airport;

Authorizing the City Manager to execute the Easement in favor of San Diego Gas and Electric Company.

CITY MANAGER SUPPORTING INFORMATION:

Air 88, Inc., a City lessee, is a Fixed Base Operator (FBO) at Montgomery Field Airport. They provide fuel service, hangars, aviation supplies, and charter and pilot support services to the general aviation community. Air 88, Inc., is in the process of building new aircraft hangars at Montgomery Field Airport as required by the Lease. The new hangars will house various single and multi engine aircraft up to the Lear Jet size. These hangars range in size from 60' x 60' to 70' x 70' and include executive pilot office areas.

This project requires new underground electrical service, necessitating the need for an easement in favor of SDG&E. The requested easement is irregular in shape, 10 ft. wide and 313 ft. long consisting of approximately 3130 sq. ft.

The Federal Aviation Administration has reviewed and approved the underground electrical utilities.

SDG&E will not be charged for this easement due to the fact that it will benefit the City and its lessee; however, the City's established processing fee has been paid.

According to San Diego Municipal Code 22.0907, no appraisal is required for a sale to a public agency.

FISCAL IMPACT:

There is no fiscal impact associated with this proposal because it would benefit a City Lessee.

Herring/Griffith/CPA

FILE LOCATION: DEED F-9720

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-110: Black Mountain Trails System.

(Penasquitos Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-985) CONTINUED TO MONDAY, APRIL 26, 2004

Vacating a 44-foot wide portion of the open space easement located on Lot C of Black Mountain Ranch Unit No. 12 of Map No. 14097;

Reserving a general utility and access easement over the same 44-foot wide portion of property located on Lot C of Black Mountain Ranch Unit No. 12 of Map No. 14097;

Authorizing the City Manager to enter into an agreement with Pardee Homes to convey to Pardee Homes an approximately 35-foot-wide by 900-foot-long parcel located immediately west of and adjacent to Camino de la Luna in Lot C of Black Mountain Ranch Unit No. 12 of Map No. 14097, in exchange for the agreement of Pardee Homes to landscape, irrigate, and maintain the property as open space, and construct and maintain a public trail system on the west side of Camino de la Luna;

CITY MANAGER SUPPORTING INFORMATION:

By deed dated December 7, 2000, the City took title to a 35 foot wide by 900 foot long parcel in the Black Mountain Ranch Community. The property is dedicated by deed to open space use. This parcel transfer was a mapping requirement of the Santa Luz development. The parcel lies immediately west of and adjacent to Camino de la Luna and consists entirely of manufactured slopes, with no vegetation. It fronts a planned residential development, "Fairbanks Summit," by Pardee Homes.

Pardee requires a driveway and utility easement over a small portion of the open space parcel for access to the affordable housing project to the west, "Fairbanks Summit." Staff is proposing to vacate the open space dedication over the 44-foot driveway portion, reserve a general utility and access easement over for the driveway (see City drawing 19898-1-B), and relinquish ownership of the entire parcel to the developer of the adjacent project.

The property will retain the open space restriction over the parcel (except for the driveway), and in exchange for the City's transfer of ownership, the developer will landscape the property with ornamental plant material and irrigate the slope parcel as part of the development, and accept all future maintenance. Also, the developer will assume responsibility for the construction and maintenance of a portion of the public trail system on the west side of Camino de la Luna.

This proposal will assure the development of a trail system in this area, preserve open space through an open space easement, relieve the City of maintenance responsibility over the manufactured slopes, and provide for driveway access to the affordable housing project.

FISCAL IMPACT:

None.

Herring/Griffith/BLM

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO CONTINUE THIS ITEM TO MONDAY, APRIL 26, 2004, FOR FURTHER REVIEW. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-111: Slope, Access, and Water Easement Vacations in Lots 1, 2, 5, and 6 of La Jolla Commons, Map No. 14466.

(University Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2004-1021) ADOPTED AS RESOLUTION R-299066

Vacating the City's interest in the slope easements located within Lots 1, 2, and 6 of La Jolla Commons Map No. 14466, 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.

Subitem-B: (R-2004-1022) ADOPTED AS RESOLUTION R-299067

Vacating the City's interest in the access easement located within Lots 2 and 5 of La Jolla Commons Map No. 14466, 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;

Vacating the City's interest in the water easement located within Lots 2 and 5 of La Jolla Commons Map No. 14466, 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 slope, access and water easements in Lots 1, 2, 5, and 6 of La Jolla Commons Map No. 14466 as shown on Engineering Drawing 19986-1-4-B. This property is located northeasterly of La Jolla Village Drive and Judicial Drive in the University Community Planning Area in Council District 1.

The easements are on private property. The applicant has obtained a building permit with new building design, making these easements unnecessary. There is no present or anticipated future use for the easements in their present locations.

The applicant's approved development requires that the easements be vacated. Staff has reviewed the request and recommends approval of the vacations. These easements were acquired at no cost to the City.

FISCAL IMPACT:

None.

Ewell/Broughton/GRB

FILE LOCATION: SUBITEMS A & B: DEED F-9722

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-112: Appointment of Councilmember Michael Zucchet to the SANDAG Energy Working Group.

(See memorandum from Mayor Murphy dated 3/25/2004.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1015) ADOPTED AS RESOLUTION R-299068

Appointing Councilmember Michael Zucchet as the City of San Diego representative to the SANDAG Energy Working Group, for a period ending November 30, 2004, pursuant to Section 22.0101, as amended, of the San Diego Municipal Code.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:01 p.m. – 4:02 p.m.)

MOTION BY PETERS TO ADOPT THE RESOLUTION TO APPROVE THE APPOINTMENT. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-113: Appointment and Reappointments to the Park and Recreation Board.

(See memorandum from Mayor Murphy dated 3/16/2004, with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-983) ADOPTED AS RESOLUTION R-299069

Council confirmation of the following appointment and reappointments by the Mayor, to serve as members of the Park and Recreation Board, for terms ending March 1, 2006:

Reappointments:

Jim Austin - Chair

M. Virginia (Ginny) Barnes – Vice Chair

Daniel W. Coffey

Kevin L. Faulconer

Norman Greene

Daniel T. Mazzella

Robert Otilie

Appointment:

Aurora Cudal (replaces Faith Bautista, who resigned)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT THE RESOLUTION TO CONFIRM THE APPOINTMENTS AND THE REAPPOINTMENTS. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-114: 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-2004-515) ADOPTED AS RESOLUTION R-299070

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: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-115: 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-2004-760) ADOPTED AS RESOLUTION R-299071

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: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-116: 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-2004-757) ADOPTED AS RESOLUTION R-299072

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 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
Heptatitis C Virus and the Human Immunodeficiency Virus
(HIV)

COUNCIL ACTION: (Time duration: 2:30 p.m. – 2:33 p.m.)

MOTION BY FRYE TO ADOPT. Second by Lewis. Passed by the following vote:
Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea,
Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

* ITEM-117: 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-2004-543) ADOPTED AS RESOLUTION R-299073

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the
following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-
yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket

127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk’s Office has established the following administrative guidelines for the November 2, 2004 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	5/28/2004	158	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee.
Wednesday	6/16/2004	139	Rules Committee review of ballot proposals.
Monday	6/21/2004	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.
Monday	6/28/2004 through	127 to	Council adopts propositions for ballot; directs City Attorney to prepare ordinances.
Monday	7/19/2004	106	
Monday	7/26/2004	99	Council adopts ordinances prepared by City Attorney.
Friday	8/06/2004	88	Last day for City Clerk to file with Registrar of Voters all elections material.
Thursday	8/19/2004	75	Last day to file ballot arguments with City Clerk.

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

ITEM-251: Notice of Pending Final Map Approval – “Sycamore Estates – Unit 1,” “Sycamore Estates – Unit 2,” and “Sycamore Estates – Unit 3.”

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final maps entitled “Sycamore Estates – Unit 1,” “Sycamore Estates – Unit 2,” and “Sycamore Estates – Unit 3” (T.M. No. 99-0899), copies of which are available for public

viewing at the Office of the San Diego City Clerk. Said project is located southeasterly of Pomerado Road and Beeler Canyon Road in the Military Facilities Reserve Area in Council District 7. Specifically, the City Engineer has caused the maps to be examined and has made the following findings:

- (1) The maps substantially conform to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The maps comply with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The maps are technically correct.

Said maps will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the maps or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-S400: Old Police Headquarters Day.

COUNCILMEMBER MAIENSCHEN'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1035 Cor. Copy) ADOPTED AS RESOLUTION R-299074

Declaring Monday, April 12, 2004 to be "Old Police Headquarters Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:40 p.m. – 2:46 p.m.)

MOTION BY MAIENSCHHEIN TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S401: Neil Morgan Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1036) ADOPTED AS RESOLUTION R-299075

Thanking Neil for sharing with us his words, wisdom, and wit; commending him for pushing us to govern this City with integrity and honesty, and saluting him for daring to speak his mind and to challenge the status quo;

Proclaiming April 12, 2004, to be "Neil Morgan Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:46 p.m. – 2:54 p.m.)

MOTION BY FRYE TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-not present, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-S402: Amendment to Tenant's Right to Know (Cause Eviction) Ordinance Section 98.0730.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2004-122) INTRODUCED, TO BE ADOPTED ON MONDAY,
APRIL 26, 2004

Introduction of an Ordinance amending Chapter 9, Article 8, Division 7 of the San Diego Municipal Code by amending Section 98.0730, pertaining to Cause for Residential Evictions.

SUPPORTING INFORMATION:

On March 30, 2004, the City Council adopted Ordinance No. 19269 (CA No. O-2004-55 Rev.) requiring that long-term tenants in the City be evicted only for causes permitted in the ordinance. The City Attorney advised that provisions permitting eviction to allow occupancy by an owner or relative had been inadvertently omitted from the ordinance. This ordinance corrects that error and further makes clear that the regulations do not limit a landlord's ability to raise rent on any rental unit.

Gwinn/Dugard

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:46 p.m. – 4:52 p.m.)

MOTION BY FRYE TO INTRODUCE. Second by Lewis. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-not present.

ITEM-S403: Initiation of a Community Plan Amendment to Remove the Bay-to-Bay Concept from the Midway/Pacific Highway Corridor Community Plan and Local Coastal Program Land Use Plan.

(Midway/Pacific Highway and North Bay Redevelopment Project Areas.
District-2.)

COUNCILMEMBER ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1011) ADOPTED AS RESOLUTION R-299076

Initiating a community plan amendment process to:

1. Remove the Bay-to-Bay concept from the Midway/Pacific Highway Corridor Community Plan and Local Coastal Program Land Use Plan;
2. Insert into the community plan an alternative strategy for open space and recreation, in which several parks would be developed in the Midway Community, to be linked by pedestrian/bike routes;
3. Insert into the community plan architectural and landscaping guidelines that are similar to those identified for implementation by the Midway Community Planning Advisory Committee in the North Bay Conceptual Plan;
4. Identify portions of the community where mixed-use, urban, transit-oriented development should be encouraged;
5. Make other appropriate changes needed to bring the community plan up to date with relevant community and redevelopment goals for the area.

SUPPORTING INFORMATION:

The "Bay-to-Bay Link" is a proposed concept to build a canal between San Diego Bay and Mission Bay. In 1994, this concept was discussed in a series of public workshops. As a result, Bay-to-Bay was included in the North Bay Redevelopment Plan (May 1998) and the Midway/Pacific Highway Corridor Community Plan and Local Coastal Program Land Use Plan (January 1999).

In January 2002, the City commissioned the Bay-to-Bay Feasibility Study, to determine whether or not it was physically possible to build a Bay-to-Bay Link and, if so, how much it would cost and what issues might be involved. The final Feasibility Study, which was completed in October 2003, analyzed three options:

	<u>Project Cost</u>
Option 1: Navigable Canal	\$574,315,112
Option 2: Greenbelt with Non-Tidal Waterways	\$433,383,941
Option 3: Greenbelt without water features	\$324,658,251

All three options would require huge capital costs to build, and they would require significant annual maintenance costs. In addition, all three options would involve a long, expensive process to acquire private land. The Study estimated that land acquisition alone would cost \$276 to \$362 million. The prolonged, uncertain nature of the acquisition phase may damage the real estate market in the surrounding Midway district.

Options 1 (Canal) and 2 (Non-Tidal Channel) would encounter serious engineering issues - e.g., subsurface conditions, geotechnical issues, water quality and environmental concerns - that might prevent the project from being completed. The Study identified numerous utilities, underground storage tanks, culturally/architecturally significant sites, and other obstacles. Relocation of utilities would account for up to \$85 million of the total project cost, depending on which alternative is selected. In addition, the proposed canal would contaminate the San Diego River with sea water from San Diego Bay - which would pose a serious threat to the river's fragile habitat.

Bay-to-Bay has been discussed in several public meetings and the community has consistently opposed the concept. On January 14, 2004, the Midway Community Planning Advisory Committee voted unanimously to remove Bay-to-Bay from the community plan. On March 3, 2004, the North Bay PAC voted 13-1 to: (1) oppose the Bay-to-Bay water link, and (2) support the development of alternative strategies to create multiple parks in the North Bay area.

The proposed resolution would initiate the process to amend the Midway/Pacific Highway Corridor Community Plan and Local Coastal Program Land Use Plan, in order to remove the Bay-to-Bay Concept. Staff would also make minor modifications and updates to the community plan, such as: developing an alternative strategy for open space and recreation; adding architectural and landscaping guidelines similar to guidelines proposed in the North Bay Conceptual Plan; and analyzing potential sites where transit-oriented and mixed-use development should be encouraged. The community plan amendment will be a future action by the City Council.

FISCAL IMPACT:

Costs associated with processing the Community Plan Amendment will be paid for by North Bay Redevelopment funds and are estimated to be \$55,000.

Zucchet

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:02 p.m. – 4:08 p.m.)

MOTION BY ZUCCHET TO ADOPT THE RESOLUTION TO INITIATE THE COMMUNITY PLAN AMENDMENT PROCESS TO REMOVE THE BAY-TO-BAY CONCEPT FROM ALL APPLICABLE COMMUNITY PLANS, AND TO MAKE OTHER APPROPRIATE CHANGES AS OUTLINED IN HIS RECOMMENDATIONS. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S404: Retention Agreement with Vinson & Elkins to Provide Representation Before the Securities and Exchange Commission and to Prepare an Internal Report on Disclosure Practices.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1044) ADOPTED AS RESOLUTION R-299077

Authorizing the City Attorney to execute an amendment to the retention agreement with Vinson & Elkins, for an additional amount not to exceed \$350,000, for a total contract amount not to exceed \$500,000.

SUPPORTING INFORMATION:

The City previously retained the law firm of Vinson & Elkins ("V&E") to prepare an internal report on the City's securities disclosure practices from 1996 through the present. The City Manager authorized the retention in an amount not to exceed \$150,000. Subsequently, the City was informed that the Securities & Exchange Commission ("SEC") had begun an investigation into certain City financial matters, and the City requested that V&E expand their scope of

services to include representing the City at the SEC. The initial authorization is insufficient for these purposes, and additional authorization is now being sought in an amount not to exceed \$350,000, for a total contract amount not to exceed \$500,000.

Girard/Ewell

Aud. Cert. 2400977.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:23 p.m. – 4:40 p.m.)

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

* ITEM-S405: Retention Agreement with KPMG LLP to Perform an Audit of the City's FY 2003 Basic Financial Statements.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1045) ADOPTED AS RESOLUTION R-299078

Authorizing the City Manager to execute an amendment to the retention agreement with KPMG LLP, for an additional amount not to exceed \$250,000 for a total contract amount not to exceed \$500,000.

SUPPORTING INFORMATION:

On January 27, 2004, the City filed a voluntary financial disclosure concerning, in part, certain errors and correctible statements in the City's FY 2002 Consolidated Annual Financial Report ("CAFR"). As a result, the FY 2003 CAFR has not been finalized and issued. The City Manager previously retained the firm of KPMG LLP to perform the audit of the City's FY 2003 basic financial statements, which are included in the CAFR, before the FY 2003 CAFR is finalized and issued. KPMG has been determined to be the only firm capable of providing the necessary services in a timely fashion and at the least cost. The total cost for the necessary services was anticipated to be approximately \$500,000, however in order to meet the City's timing needs for the finalization of the FY 2003 CAFR, the City Manager authorized the execution of an

engagement letter with KPMG to begin the work in the initial amount of \$250,000. Additional authorization is now being sought from the City Council to permit the completion of the audit.

Girard/Ewell

Aud. Cert. 2400976.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:40 p.m. – 4:42 p.m.)

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

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Deputy Mayor Atkins at 4:53 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:53 p.m.)