

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 TUESDAY, APRIL 15, 2008
 AT 9:00 A.M.
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:07 a.m. The meeting was recessed by Council President Peters at 11:53 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:03 p.m. with Council Member Frye not present. Council President Peters recessed the meeting at 3:47 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:52 p.m. with all Council Members present. Council President Peters convened the Redevelopment Agency at 4:31 p.m. Council President Peters reconvened the regular meeting at 4:32 p.m. with all Council Members present. Council President Peters recessed the meeting at 5:47 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 6:34 p.m. with Council President Pro Tem Madaffer not present. The meeting was adjourned by Council President Peters at 6:45 p.m. into Closed Session in the twelfth floor conference room to discuss pending and potential litigation matters.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present

(8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES



ITEM-300:

ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-not present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. – 10:55 a.m.)

PUBLIC COMMENT-2:

Ron Boshun commented on the actions of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. - 10:57 a.m.)

PUBLIC COMMENT-3:

Tucker Gonzales commented on the homeless.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. - 10:59 a.m.)

PUBLIC COMMENT-4:

Bill Diehl commented on the Engineering and Capital Projects Department.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:59 a.m. - 11:01 a.m.)

PUBLIC COMMENT-5:

James Hartline commented on Chinese persecution.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. - 11:04 a.m.)

PUBLIC COMMENT-6:

Tony Corbin presented his students from Kearny High School.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. - 11:05 a.m.)

PUBLIC COMMENT-7:

Referred to Natural Resources and Cultural Committee and City Attorney's Office:
Kyle Halverson, Mai Moua and Derrick Beebe presented about ship regulations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. - 11:07 a.m.)

PUBLIC COMMENT-8:

Referred to Natural Resources and Cultural Committee and City Attorney's Office:
Joska Charles, Alisa Drakonekham, Hannan Schneider, Rosa Truong and Maria Macias presented on electronic recycling.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:07 a.m. - 11:10 a.m.)

PUBLIC COMMENT-9:

Referred to Natural Resources and Cultural Committee and City Attorney's Office:
Dorothy Williams, Heather Garcia and Anna Cruz presented a photochemical Smog law proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:10 a.m. - 11:13 a.m.)

PUBLIC COMMENT-10:

Referred to Natural Resources and Cultural Committee and City Attorney's Office:

Tyler Negrete, Edward Shaffer, Kurestein Raymond and Ruth Rubio presented a bus law proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:14 a.m. - 11:17 a.m.)

PUBLIC COMMENT-11:

Izean Rim, Jr., commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:17 a.m. - 11:19 a.m.)

PUBLIC COMMENT-12:

Mignon Scherer commented on water concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:19 a.m. - 11:21 a.m.)

PUBLIC COMMENT-13:

Phil Hart commented on the pay of the City Council and the Mayor.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:21 a.m. - 11:24 a.m.)

PUBLIC COMMENT-14:

Joy Sunyata commented on homelessness.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:24 a.m. - 11:27 a.m.)

PUBLIC COMMENT-15:

Referred to Rules Committee: Christopher Barnes commented on the 10th Avenue Marine Terminal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:27 a.m. - 11:29 a.m.)

PUBLIC COMMENT-16:

Ted Patrick commented on a drive-by shooting in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:30 a.m. – 11:32 a.m.)

PUBLIC COMMENT-17:

Doug Beckham commented on Fiesta Island.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:32 a.m. – 11:34 a.m.)

PUBLIC COMMENT-18:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:35 a.m. – 11:38 a.m.)

PUBLIC COMMENT-19:

Adrian Kwiatkowski commented on the 10th Avenue Marine Terminal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:38 a.m. – 11:41 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Atkins invited Normal Heights community members to the Normal Heights Community Center on April 16, 2008, for the Public Safety Meeting.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:45 a.m. – 11:46 a.m.)

COUNCIL COMMENT-2:

Council Member Young commented on a memo sent by the Mayor regarding our Nation's Senate to be referred to the Rules Committee and Reinvestment Task Force to review the memo and make recommendations.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:46 a.m. - 11:47 a.m.)

COUNCIL COMMENT-3:

Council President Pro Tem Madaffer requested that "No Parking" signs be authorized and gone through a process by each district before being placed in communities.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:48 a.m. - 11:49 a.m.)

COUNCIL COMMENT-4:

Council Member Frye commented on the "No Parking" signs in her community.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:49 a.m. - 11:50 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



[ITEM-30:](#) Earth Day.

**COUNCIL PRESIDENT PETERS' AND COUNCILMEMBER FRYE'S
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-857) ADOPTED AS RESOLUTION R-303563

Proclaiming April 20, 2008, as "Earth Day" and the month of April 2008 as "Earth Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:08 a.m. – 10:15 a.m.)

MOTION BY FRYE TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



[ITEM-31:](#) Gay and Lesbian Times Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-723) ADOPTED AS RESOLUTION R-303564

Commending the Gay and Lesbian Times for its 20 years of reporting service to the San Diego community;

Proclaiming March 13, 2008, to be “Gay and Lesbian Times Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:24 a.m. – 10:46 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-32: Financial Literacy Month.

COUNCILMEMBER YOUNG’S RECOMMENDATION:

Adopt the following resolution:

(R-2008-794) ADOPTED AS RESOLUTION R-303896

Proclaiming the month of April 2008, to be “Financial Literacy Month” and April 1, 2008 as its kick off day, in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:15 a.m. – 10:23 a.m.)

MOTION BY YOUNG TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



[ITEM-33:](#) Approval of Council Minutes.

TODAY'S ACTION IS:

APPROVED

Approval of Council Minutes for the meetings of:

03/03/2008
03/04/2008
03/10/2008
03/11/2008
03/17/2008 - Adjourned
03/18/2008 - Adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:23 a.m. – 10:24 a.m.)

MOTION BY HUESO TO APPROVE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-50: First Amendment to the Master Lease Agreement with Koch Financial for the Lease Purchase of Fire Helicopter and Essential Equipment and Vehicles. (Citywide.)

(See Report to the City Council No. 08-039.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/25/2008, Item 330. (Council voted 8-0):

(O-2008-128) ADOPTED AS ORDINANCE O-19736 (New Series)

Authorizing the Mayor to enter into a First Amendment to the Master Lease Agreement between the City and Koch Financial, to finance the acquisition of various motive and public safety equipment, including the acquisition of a new fire-rescue helicopter.

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

FILE LOCATION: LEAD-KOCH FINANCIAL

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-51: Amending the San Diego Municipal Code Regarding Ethics Ordinance.

(See memorandum from Stacey Fulhorst dated 2/15/2008.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/25/2008, Item 56. (Council voted 8-0):

(O-2008-121) ADOPTED AS ORDINANCE O-19737 (New Series)

Amending Chapter 2, Article 7, Division 35 of the San Diego Municipal Code, by amending Section 27.3551, relating to the City of San Diego Ethics Ordinance. The Ethics Commission believes that there is no public interest served by applying the prohibitions of Section 27.3551 to a City Official's prospective future employment with another public agency, and has therefore recommended amending the Ethics Ordinance to expressly exclude public agencies from the scope of the prohibitions in Section 27.3551.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-52: Amendment No. 2 to the Consultant Agreement with Kennedy/Jenks for Upgrades to Specific Canyon Trunk Sewers Group 2. (Mira Mesa, San Diego County, Scripps Miramar Ranch, and Navajo Community Areas. Districts 5 and 7.)

(See Metropolitan Wastewater Department's 1/7/2008 1472 Request for Action.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/25/2008, Item 57. (Council voted 8-0):

(O-2008-108) ADOPTED AS ORDINANCE O-19738 (New Series)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Second Amendment to the Agreement with Kennedy/Jenks Consultants, for a one-year time extension on the agreement, for the pre-design, design, and construction support in connection with the City's Specific Canyon Trunk Sewer Upgrades, and under terms and conditions set forth in Amendment No. 2;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15262 because it involves only feasibility or planning studies for future action.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-53: Rooming House Ordinance, proposed amendments to the Land Development Code and the Local Coastal Program to prohibit the commercial use of single dwelling units in single residential unit zones. (Citywide.)

(See Independent Budget Analyst Report No. 08-27 and Report to Planning Commission PC 07-150/Project No. 137077.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/24/2008, Item 202. (Council voted 8-0):

(O-2008-61 Rev.) ADOPTED AS ORDINANCE O-19739 (New Series)

Amending Chapter 11, Article 3, Division 1, by amending Section 113.0103; by amending Chapter 13, Article 1, Division 1, by amending Section 131.0112; Division 2, by amending Section 131.0222; Division 3, by amending Section 131.0322; Division 4, by amending Sections 131.0422 and 131.0423; Division 5, by amending Section 131.0522; Division 6, by amending Section 131.0622; and, by amending Chapter 14, Article 2, Division 5, by amending Section 142.0525.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



* ITEM-54: Tax Ordinance Amending Retirement Plan Consistent with IRS Compliance Statement.

CITY COUNCIL'S RECOMMENDATION:

Adopt the ordinance in Subitem A which was introduced as amended on 4/1/2008, Item 332, Subitem B. (Council voted 8-0):

Subitem-A: (O-2008-133 Rev.) ADOPTED AS ORDINANCE O-19740
(New Series)

Amending Chapter 2, Article 4, of the San Diego Municipal Code by amending Division 1, Sections 24.0103 and 24.0103.1; by amending Division 2, Sections 24.0201 and 24.0202; by amending Division 3, Sections 24.0301 and 24.0302; by amending Division 8, Section 24.0801; by amending Division 9, Sections 24.0901 and 24.0902; by amending Division 10, by renumbering Section 24.1000 to Section 24.1001, Section 24.1005 to Section 24.1003, by amending and renumbering Section 24.1010 to 24.1004, by renumbering Section 24.1011 to Section 24.1005, Section 24.1012 to Section 24.1006, Section 24.1013 to Section 24.1007, and Section 24.1014 to Section 24.1008, and by adding Section 24.1009; by repealing Division 12, Section 24.1203 and amending Section 24.1204; by repealing Division 13, Section 24.1310(c), by repealing Division 14, Section 24.1402(b)(9), by repealing Division 15, Section 24.1502(a)(5); all relating to the San Diego City Employees' Retirement System.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the Ordinance in Subitem B:

Subitem-B: (O-2008-135) CONTINUED TO TUESDAY, MAY 27, 2008

Introduction of an Ordinance amending Chapter 2, Article 4, of the San Diego Municipal Code by amending Division 1 to add Section 4.0101.1; and by amending Division 2, Section 24.0201; and by amending Division 3, Section 24.03001; all relating to the San Diego City Employees' Retirement System.

SUPPORTING INFORMATION:

On April 1, 2008, the City Council introduced the Ordinance (O-2008-133) described in Subitem A to comply with a condition of a voluntary correction plan agreement ("VCP Agreement") entered into between the Internal Revenue Service, the City of San Diego, and the San Diego City Employees' Retirement System ("SDCERS" or "Retirement System"), and upon which is conditioned SDCERS continued status as a tax qualified retirement plan.

The ordinance originally contained additional language relating to receipt of a favorable determination letter from the Internal Revenue Service regarding the duties of a City employee who serve as union president. At the hearing, the Council voted to have the City Attorney prepare a separate ordinance for introduction that incorporates the language not introduced from the original version.

The ordinance in Subitem B contains language similar to the original but it has been broadened to ensure that the Retirement System is regularly submitted to the Internal Revenue Service for review as to SDCERS' continued status as a tax qualified retirement plan and to ensure that a Member of the Retirement System may continue to participate in the City's Retirement System while serving as a president of a recognized employee labor organization (sometimes referred to as "union"), subject to receipt of a favorable determination letter from the Internal Revenue Service.

The ordinance also amends the sections relating to union presidents' benefits to clarify that nothing in the amendments adopted by the Ordinance (O-2008-133) in Subitem A creates any obligation on the part of the City to retroactively place a union president on the payroll of the City if the union president was actually on the union's payroll.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-56: Amending the San Diego Municipal Code Relating to Zero Tolerance Graffiti Ordinance.

(See memorandum from the City Attorney dated 9/7/2007.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2008-104) RETURNED TO MAYOR

Introduction of an Ordinance amending Chapter 5, Article 4, Division 4, of the San Diego Municipal Code by amending Sections 54.0401, 54.0405, and 54.0414, and deleting 54.0412, all relating to graffiti. This ordinance would update the Municipal Code by removing the crime of graffiti from the Municipal Code, requiring that graffiti vandals be charged under state anti-graffiti laws. This ordinance also expresses the City Council's intent that graffiti vandals be prosecuted to the fullest extent of the law.

PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S RECOMMENDATION:

On 9/12/2007, PS&NS voted 4 to 0 to approve the draft zero tolerance graffiti ordinance and forward to the full City Council. (Councilmembers Faulconer, Young, Maienschein, and Hueso voted yea.)

SUPPORTING INFORMATION:

The ordinance implements a zero tolerance approach to graffiti vandalism by updating the Municipal Code provisions dealing with graffiti, identifies graffiti as both a crime and a nuisance, and encourages prosecution of graffiti vandalism to the fullest extent of the law. It will preclude public access, without employee assistance, to certain equipment used to produce graffiti, and provide for increased committee oversight regarding program effectiveness.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The graffiti proposal was discussed at the PS&NS Committee meeting of March 28, 2007 and referred to the City Attorney to draft the ordinance. A report from the City Attorney regarding the Proposed Zero Tolerance of Graffiti Vandalism Ordinance and Draft Ordinance O-2007-156, were presented to the PS&NS Committee meeting at the meeting of September 12, 2007. The PS&NS Committee approved the draft ordinance and forwarded it to the City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Some vendors were spoken with and presentations were made to District 5 and District 4 community groups. The ordinance was discussed on radio and announced on various television news programs.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

San Diego Police Department, Neighborhood Code Compliance, the City Attorney, retailers of graffiti tools, all City of San Diego communities, neighborhoods, and businesses that sell spray paint, etching products, or thick, indelible ink pens that are often used in graffiti crimes.

Rivera

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:46 a.m. – 10:47 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-100: Inviting Bids for the Asphalt Overlay Group I, Fiscal Year 2008 Project.
(Various Community Areas. Districts 2, 3, 4, 7, and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-774) ADOPTED AS RESOLUTION R-303595

Approving the plans and specifications for the Asphalt Overlay Group I, Fiscal Year 2008 Project, on Work Order No. 576510;

Authorizing the Mayor, or his designee, after advertising for bids, to award a contract for the above project to the lowest responsible and reliable bidder in an amount not to exceed \$5,887,251;

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2008 Capital Improvement Program budget by increasing CIP-59-001.0, Annual Allocation - Resurfacing City Streets, in Fund No. 630221, Contributions from 100 Fund, by the amount of \$6,157,113;

Authorizing the City Auditor and Comptroller to transfer the amount of \$6,157,113 from General Services Department 534, Street Division General Fund No. 100, to Fund No. 630221, Contributions from 100 Fund, CIP-59-001.0, Annual Allocation - Resurfacing City Street;

Authorizing the expenditure of an amount not to exceed \$6,181,613, solely and exclusively, to provide funds for the above contract, contingency, and related costs, to be expended as follows: \$6,157,113 from Fund No. 630221, Contributions from 100 Fund, CIP-59-001.0, Annual Allocation - Resurfacing City Streets; \$16,900 from Sewer Revenue Fund No. 41506; and \$7,600 from Water Department Fund No. 41500;

Authorizing the Mayor, or his designee, to execute an option to extend the contract for asphalt overlay of additional streets, in an amount not to exceed \$5,887,251 contingent on the availability of additional funding and provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

Declaring that the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(c), as the repair, maintenance, or minor alteration of existing streets, sidewalks, gutters, and similar facilities. (BID-K084131C)

STAFF SUPPORTING INFORMATION:

This asphalt overlay contract is one of five FY 08 street maintenance contracts and will provide for the repair and resurfacing of 10.8 miles of asphalt streets. To allow for more efficient routing by the contractor and better pricing, this contract includes streets primarily south of Interstate 8. Locations for the Annual Street Maintenance Program are chosen through the use of pavement condition surveys, and the City's pavement management system using the following criteria: age, oxidation, cracking, amount of patching, street classifications and average daily traffic, and avoiding conflict with any planned underground utility work. Failed areas of the pavement will be removed and repaired prior to resurfacing and asphalt adjacent to curbs and gutters will be milled down to maintain proper curb heights and drainage. Approximately 10,700 tons of asphalt will be removed and recycled for use in other street maintenance activities. This overlay project will incorporate a new environmentally friendly process to rehabilitate a limited number of old and deteriorated streets. This process, known as "Cold In-Place Recycling," will recycle the existing broken pavement by mixing it with special chemical additives to produce a new, smooth pavement surface. The streets selected for this process typically have a large amount of cracks and surface distresses. This contract also includes the installation of curb ramps, which will be placed at affected locations in compliance with ADA requirements.

The list of streets in the resurfacing plan for FY 08 is attached, but may be revised prior to award of the contract in order to avoid any construction conflicts that may arise. Construction for this project is expected to begin in June 2008, and take approximately 3 months to complete. In addition to the construction contract costs of \$5,887,251 and the project contingency of \$117,745, the following administrative costs are also included: \$58,872 for project management, \$117,745 for construction management, for a total project cost of \$6,181,613.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego - Prevailing wages to do not apply to this contract (No State or Federal Funding sources).

Goals: 18% Mandatory Subcontractor Participation Goal, 6% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 11% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPe. Failure to comply with SCOPe will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or email.

FISCAL CONSIDERATIONS:

Funding in the amount of \$6,181,613 for the contract and related administration costs is available as follows: \$6,157,113 from General Services Department 534 Street Division General Fund 100; \$16,900 from Sewer Fund 41506; \$7,600 from Water Fund 41500.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The list of streets to receive overlay is part of the FY 08 resurfacing plan.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

After the contract is awarded, citizens will be notified by the contractor when paving will begin on their specific street.

Sierra/Jarrell

Aud. Cert. 2800670.

Staff: Mary Wolford - (619) 527-7515
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: CONT-Hazard Construction Company

COUNCIL ACTION: (Time duration: 5:37 p.m. – 5:37 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote:
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-not present, Hueso-not present.



ITEM-101: Inviting Bids for Asphalt Overlay Group II, Fiscal Year 2008 Project.
(Various Community Areas. Districts-All.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-775) ADOPTED AS RESOLUTION R-303596

Approving the plans and specifications for the Asphalt Overlay Group II, Fiscal Year 2008 Project, on Work Order No. 576510;

Authorizing the Mayor, or his designee, after advertising for bids, to award a contract for the above project to the lowest responsible and reliable bidder in an amount not to exceed \$9,555,378;

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2008 Capital Improvement Program budget by increasing CIP-59-001.0, Annual Allocation - Resurfacing City Streets, in Fund No. 630221, Contributions from 100 Fund, by the amount of \$5,342,887;

Authorizing the City Auditor and Comptroller to transfer the amount of \$5,342,887 from General Services Department 534, Street Division General Fund No. 100, to Fund No. 630221, Contributions from 100 Fund, CIP-59-001.0, Annual Allocation - Resurfacing City Streets and to transfer the amount of \$4,625,942 within Underground Surcharge Fund No. 30101, from CIP-37-028.0,

Annual Allocation Utilities Underground Program, to CIP-59-001.0, Annual Allocation - Resurfacing City Streets;

Authorizing the expenditure of an amount not to exceed \$10,008,999, solely and exclusively, to provide funds for the above contract, contingency, and related costs, to be expended as follows: \$9,968,829 from Fund No. 630221, Contributions from 100 Fund, CIP-59-001.0, Annual Allocation - Resurfacing City Streets; \$27,690 from Sewer Revenue Fund No. 41506; and \$12,480 from Water Department Fund No. 41500, provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the Mayor, or his designee, to exercise an option to extend the contract for asphalt overlay of additional streets, in an amount not to exceed \$9,555,378, contingent on the availability of additional funding and provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

Declaring that the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(c), as the repair, maintenance, or minor alteration of existing streets, sidewalks, gutters, and similar facilities. (BID-K084222C)

STAFF SUPPORTING INFORMATION:

This asphalt overlay contract is one of five FY 08 street maintenance contracts and will provide for the repair and resurfacing of 17.1 miles of asphalt streets. To allow for more efficient routing by the contractor and better pricing, this contract includes streets primarily north of Interstate 8. Of this total, 9.7 miles are part of the City's Street Maintenance Program for FY 08 and 7.4 miles are part of the City's Utilities Underground Program in partnership with the Engineering and Capital Projects Department. Locations for the Annual Street Maintenance Program are chosen through the use of pavement condition surveys, and the City's pavement management system using the following criteria: age, oxidation, cracking, amount of patching, street classifications and average daily traffic, and avoiding conflict with any planned underground utility work.

Failed areas of the pavement will be removed and repaired prior to resurfacing and asphalt adjacent to curbs and gutters will be milled down to maintain proper curb heights and drainage.

Approximately 17,100 tons of asphalt will be removed and recycled for use in other street maintenance activities. This overlay project will incorporate as a pilot program, a new environmentally friendly process to rehabilitate a limited number of old and deteriorated streets. This process, known as "Cold In-Place Recycling", will recycle the existing broken pavement by mixing it with special chemical additives to produce a new, smooth pavement surface. The streets selected for this process typically have a large amount of cracks and surface distresses. This contract also includes the installation of curb ramps, which will be placed at affected locations in compliance with ADA requirements.

The list of streets in the resurfacing plan for FY 08 is attached, but may be revised prior to award of contract in order to avoid any construction conflicts. Construction for this project is expected to begin in June 2008, and take approximately 4 months to complete.

In addition to the construction contract costs of \$9,555,378 and the project contingency of \$191,108, the following administrative costs are also included: \$95,294 for project management, \$167,219 for construction management, for a total project cost of \$10,008,999.

EQUAL OPPORTUNITY CONTRACTING:

- Funding Agency:** City of San Diego - Prevailing wages to do not apply to this contract (No State or Federal Funding sources).
- Goals:** 18% Mandatory Subcontractor Participation Goal, 6% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 11% Advisory Participation Goal Other Business Enterprise (OBE).
- Other:** Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPe. Failure to comply with SCOPe will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or email.

FISCAL CONSIDERATIONS:

Funding in the amount of \$10,008,999 for the contract and related administration costs is available as follows: \$5,342,887 from General Services Department 534 Street Division General Fund 100; \$4,625,942 from CIP-37-028.0, Utilities Underground Program, Underground Surcharge Fund 30101; \$27,690 from Sewer Fund 41506; \$12,480 from Water Fund 41500.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The list of streets to receive overlay is part of the FY 08 resurfacing plan.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

After the contract is awarded, citizens will be notified by the contractor when paving will begin on their specific street.

Sierra/Jarrell

Aud. Cert. 2800671.

Staff: Mary Wolford - (619) 527-7515
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: CONT-Hazard Construction Company

COUNCIL ACTION: (Time duration: 5:37 p.m. – 5:37 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-not present.

* ITEM-102: First Amendment to the Agreement with Jones & Stokes Associates, Inc. for Environmental Biological As-Needed Consulting Services. (Citywide.)

(See undated memorandum from Debra Fischle-Faulk and Beryl Rayford.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-800) ADOPTED AS RESOLUTION R-303565

Authorizing the Mayor, or his designee, to execute the First Amendment to the Agreement with Jones & Stokes Associates, Inc., increasing the potential contract value by \$500,000, to a total amount not to exceed \$750,000;

Authorizing the Mayor, or his designee, to issue tasks orders to Jones & Stokes Associates, Inc., under the First Amendment to the Agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(c) because this activity is not a project.

STAFF SUPPORTING INFORMATION:

Under this Amendment 1 to the Agreement, Jones & Stokes will continue to provide the City with the environmental biological consulting services by task order on an hourly basis. These services include, but are not limited to, performing biological resource evaluations including field surveys, wetland delineations, biology and wetland reports, mitigation and mapping services, and construction monitoring; revegetation design and planning; water quality analysis; resource agency permitting; archaeological and paleontological resource evaluations/monitoring services; preliminary hazardous waste analysis; and assistance with the preparation of California Environmental Quality Action documents (Environmental Impact Reports, etc.).

The increased Not-To-Exceed Limit will allow to expand the use of these as-needed services from Water and Sewer Enterprise funded projects only to all Capital Improvement Projects, regardless of funding source. The demands in the CIP program have increased and are likely to continue to do so. Therefore, the capacity of this agreement and the services provided need to be increased in order to meet that demand.

The total contract with this firm shall not exceed \$750,000 for a period of five (5) years from the date of execution of the original Agreement by the City on September 12, 2007.

FISCAL CONSIDERATIONS:

The as-needed consultant agreement was approved via a 1544 Mayoral Action (C-14234) on September 12, 2007 for a total agreement amount of \$250,000. This action will authorize the increase in the overall as-needed agreement for an amount not to exceed \$750,000. \$250,000 of the current as-needed agreement identifies Sewer and Water CIP funding sources. The additional \$500,000 could be from any funding source. While this action increases the overall as-needed agreement value, any actual tasks will not be authorized until an individual project Request for Proposal is issued to the consultant, the funding necessary is identified and encumbered and a Notice to Proceed for that individual task is issued.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Key Stakeholders are the City of San Diego, and Jones Stokes and Associates.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego

Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)

Other: Workforce Report Submitted Staff will monitor adherence to Nondiscrimination Ordinance.

Boekamp/Nagelvoort/Jarrell

Aud. Cert. 2800142.

Staff: Carrie Purcell - (619) 533-5124
Pedro De Lara, Jr. - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-103: Agreement with Brown and Caldwell for As-Needed Engineering Services 2008-2011. (Citywide.)

(See Metropolitan Wastewater Department's 12/20/2007, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-566) ADOPTED AS RESOLUTION R-303566

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with Brown & Caldwell for As-Needed Engineering Services 2008-2011 to the Metropolitan Wastewater Department, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$8,000,000 from Sewer Fund Numbers 41506, 41508, and 41509, solely and exclusively, to provide funds to support the Storm Water Pollution Prevention Division requirements for the above Agreement;

Declaring that the above activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15262 because the activity involves only feasibility or planning studies for possible future action.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 2/27/2008, NR&C voted 4 to 0 to approve with direction that the Independent Budget Analyst produce a report prior to going to Council. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The Engineering and Program Management Division of the Metropolitan Wastewater Department (MWWD) provides engineering services for operation upgrades and improvements at our treatment facilities and pump stations and for capital improvement projects. These engineering services are generally provided by City staff. However, from time to time, it has been necessary to hire outside consultant staff.

MWWD has historically utilized as-needed consultants to access highly specialized expertise which is only needed for infrequent types of projects and to accommodate work load fluctuations and emergencies, where additional staff may be needed on a short term basis.

MWWD uses professional engineering consultants to provide specialized technical services in the areas of odor control, corrosion, instrumentation and control, mechanical, and electrical engineering. It is MWWD's policy to maximize the use of City in-house engineering staff both within MWWD and Citywide. However, on those occasions when specialized expertise is required, MWWD is recommending the use of an as-needed professional engineering consultant.

With that in mind, in early August 2007, MWWD advertised for Professional Engineering Services. Eleven Proposals were received and a selection committee, in compliance with City Policy 300-7, was convened. The selection panel consisted of City Staff, including a representative from the Equal Opportunity Contracting Program. Five companies were short listed and interviewed. The selection process was based on ratings in five established categories; 1) Experience and Technical Competence; 2) Proposed Method to Accomplish the Work; 3) Knowledge and Understanding of Local Environment; 4) Project Organization and Key Personnel and 5) Equal Opportunity Program (EOP). Based on the rating criteria applied to each of the five categories, Brown & Caldwell (BC) was selected as the most qualified firm. The proposed contract with BC will have duration of three years effective from the date of Council approval.

MBE/WBE Utilization

In support of their EOP, BC encourages its employee to participate in small business outreach events, such as the San Diego County Water Authority (SDCWA) Paths to Partnerships as well as other local small business events to identify future teaming partners. In keeping with the City's policy to voluntarily provide subcontracting opportunities to all interested and qualified firms, including historically disadvantaged businesses; BC has retained the following sub consultants as members of their engineering consultant team in connection with this project.

Certified Subconsultants

MBE-Simon Wong Engineering
MBE-Lintvedt, McColl & Associates
DVBE-Chambers Group, Inc.
MBE-The Engineering Partners, Inc.
WBE-O'Conner Construction Management, Inc.
SBE-DBE-V&A Consulting Engineers

Other Subconsultants

Helix Environmental Planning Inc.
Scott A. Jenkins, PHD
Environmental Systems AB
RNT Architects
Right of Way Engineering
Black & Veatch
Ninyo & Moore
MJF Consulting Inc.

Equal Opportunity Contracting

Funding Agency: City of San Diego
Goals: 15% voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation: \$940,000 Certified Firms (11.5%) \$3,155,000 Other Firms (37.9%)
Other: Workforce Report Submitted-Equal Opportunity Plan Required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

Although the total percentage of the contract allocated to the subconsultants is estimated at 49.4%, due to the nature of the as-needed projects, the percentage utilization of MBE/WBE subconsultans is dependant upon the tasks authorized by the City and the type of work required by those tasks and may vary considerably from what is shown. That said, City staff will monitor the consultant and insure that certified subconsultants are utilized to the fullest extent whenever possible.

FISCAL CONSIDERATIONS:

The total amount of this request is \$8,000,000. Funds are available in Sewer Funds 41506, 41508, and 41509, to support MWWD requirements, and Fund 100, Dept. 533 revenues, to support SWPPD requirements.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This action will be reviewed and approved by the Natural Resources and Culture Committee on February 27, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Brown and Caldwell.

Aud. Cert. 2800628.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



* ITEM-104: First Amendment to the Agreement with Katz and Associates for Consulting Services Regarding the Think Blue Education and Outreach Program.

(See General Services Department's 2/13/2008 Executive Summary Sheet and memorandum from Drew Kleis dated 3/27/2008.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-825) ADOPTED AS RESOLUTION R-303567

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an amendment to the agreement for consulting services with Katz & Associates in connection with the Think Blue Education and Outreach Program, under the terms and conditions set forth in the First Amendment;

Authorizing the expenditure of an amount not to exceed \$366,740 from General Fund No. 100, General Services, Storm Water Pollution Prevention Division Dept. 533, solely and exclusively, to provide funds for the above First Amendment;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 2/27/2008, NR&C voted 4 to 0 to approve and request that the Committee will see what work was completed by Katz and Associates for FY 2007 at a cost of \$152,000, when this item goes before Council. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

In Fiscal Year 2007, the Storm Water Pollution Prevention Division initiated an extensive education and outreach campaign in an effort to meet the requirements of three parallel actions by the Regional Water Quality Control Board (RWQCB): adoption of an updated Municipal Storm Water Permit; two pending Total Maximum Daily Load (TMDL) orders, both in Chollas Creek (dissolved metals) and City-wide (bacteria); and water quality improvements to the Areas of Special Biological Significance (ASBS) in La Jolla.

In an effort to meet the terms of the various mandated education and outreach measures in the various RWQCB actions against the City, the "Think Blue" campaign began implementing a holistic, multi-faceted approach to achieve improved awareness and long-term sustained and measurable behavior change in target audiences including residents, commercial businesses, industry, mobile businesses, development and construction industry and school-aged children.

In November 2006, the City advertised for outreach consultants via an RFP process according to AR 26.70. Katz and Associates was one of two firms selected as qualified. In Fiscal Year 2007, the City entered into an agreement for \$152,000, with two, one-year options to renew with Katz and Associates (R-302277-1) to assist the Storm Water Pollution Prevention Division with education and outreach to the above targeted areas and audiences. The FY 2007 work was provided and completed at a cost of \$152,000. This First Amendment to the Agreement would allow the Division to exercise the option to renew the contract and receive \$366,740 in additional outreach consulting services in Fiscal Year 2008, such that the total is an amount not to exceed \$518,740.

Continued consulting services in FY 2008 will include, but are not limited to, TMDL communication in Chollas Creek, assistance with the CBSM pilot studies in La Jolla and Clairemont communities, public education and outreach regarding the construction of a porous pavement parking lot in Kellogg Park (La Jolla) and construction of a Green Street project in Clairemont. Additional Services in this First Amendment will include notification and communication to residents, businesses, industry, mobile businesses and hard to reach audiences of new and existing minimum Best Management Practices, communication of infrastructure and/or service delivery changes to residents and businesses throughout the City with an emphasis on the San Diego Bay/Chollas Creek TMDLs and assistance on up to three Community-Based Social Marketing (CBSM) pilot projects.

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

To support its Equal Opportunity Contracting commitment, the City has established voluntary participation levels. The goals for this contract are 20% Voluntary Subcontractor Participation Goal, 15% Voluntary Subconsultant Participation Goal. Goals are achieved by contracting with any combination of Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), or Other Business Enterprise (OBE) level. Attainment of the participation level goal is strongly encouraged, but strictly voluntary.

Prior to award, a workforce report or an Equal Opportunity (EEO) Plan will be submitted to the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP) for approval. Staff will monitor the plan and adherence to the Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

This action would authorize the appropriation and expenditure of funds in the amount not to exceed \$366,740 from the General Services Department, Storm Water Pollution Prevention Division Fiscal Year 2008 Operating Fund (#100) for the purposes of performing education and outreach professional activities. The total value of the original agreement (\$152,000) and First Amendment (\$336,740) would be \$518,740.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On February 23, 2007, the City of San Diego Resolution R-302277-1 authorizing Katz and Associates to conduct education and outreach services on behalf of the City's Storm Water Pollution Prevention Division.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Consultant services will continue to augment and implement the City's education and outreach efforts of the Think Blue Program, whose goal is to change the polluting behaviors of residents, business and industry across the region to comply with the Total Maximum Daily Load regulations from the Regional Water Quality Control Board.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include San Diego residents, businesses, and industry Citywide. Projected Impacts: None anticipated with this action.

Sierra/Jarrell

Aud. Cert. 2800650.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-105: Amendment No. 3 to Agreement with San Diego State University Research Foundation for Consultant Services.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-768) ADOPTED AS RESOLUTION R-303568

Authorizing the Mayor to execute, for and on behalf of the City, an amendment to a contract in an amount not to exceed \$2,959,143 for consultant services with the San Diego State University Research Foundation to provide geographical information system services, interoperable communications services, project management, regional collaboration, and regional technology strategic planning support services, under the terms and conditions set forth in the amendment to the contract.

STAFF SUPPORTING INFORMATION:

The San Diego Urban Area initiated a Regional Technology Partnership program to be funded through the Urban Area Security Initiative Grants (UASI). The stated purpose of the partnership is to integrate technology to leverage scarce emergency response resources and provide a safer environment throughout the San Diego region. Under the contract currently funded by the FY06 UASI grant, SDSURF provides two technical experts to provide interoperable communications services and geographical information system services for work across all of the jurisdictions of the San Diego Urban Area (SDUA). The work is required to enhance homeland security within SDUA, consisting of San Diego County and the incorporated cities within the county. SDSURF also provides project management, regional collaboration, a technology clearinghouse, and regional technology strategic planning support services across the SDUA as an independent judge of technology, a neutral interface between SDUA jurisdictions and vendors offering competing technology solutions, and best practices in applying available technology to leverage scarce first response resources within SDUA.

This contract was funded initially with the FY05 UASI grant at a cost of \$563,775 through November 30, 2006, and the FY06 UASI grant funds for \$1,213,525 which expire on March 31, 2008. This amendment extends the contract to allow for continued work and the additional hiring of a Technology Clearinghouse Project Manager and technology subject matter experts to support the clearinghouse using our regional FY07 UASI grant funds through March 31, 2010, at a not-to-exceed amount of \$2,959,143.

The City of San Diego, as the core city of the San Diego Urban Area, is the designated administrative agency that manages the UASI Grant through the Office of Homeland Security. Therefore, major grant expenditures, such as this contract amendment, must be processed under City procedures. This is an amendment to a sole source contract based on City Municipal Code §22.3037 and the unique qualifications of SDSURF. Please refer to the sole source justification that was approved and accepted as part of the initial contract. Approval is valid through December 31, 2011.

FISCAL CONSIDERATIONS:

There are no fiscal impacts. All expenses will be paid through the federal FY07 UASI Grant. This grant has no local match requirement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City Council previously passed Resolution R-302490 dated March 27, 2007, authorizing the application for, acceptance of and expenditure of Federal FY07 Homeland Security grants, including the UASI Grant. The grant was subsequently awarded at the net amount to the SDUA of \$12,792,000. Council also passed Resolution R-301305 dated March 24, 2006, authorizing the execution of the initial contract with San Diego State Research Foundation for \$563,775 to provide specific services under the FY05 UASI grant funds, in addition to Resolution R-302322 dated February 14, 2007, authorizing an extension of the contract for \$1,213,525 to include additional scope of work.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are San Diego State University Research Foundation and all of the incorporated cities and the unincorporated areas within San Diego County. These jurisdictions make up the San Diego Urban Area and are participants in the UASI Grant which funds the Regional Technology Partnership. This amendment to contract RR-301305 will provide continued delivery of vital services to enhance homeland security throughout the urban area. The services will be funded totally through the Federal FY07 Urban Area Security Initiative Grant.

Olen

Aud. Cert. 2800605.

Staff: Donna Faller - (619) 533-6763
Lori M. Thacker - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-106: Contract Change Order No. 2 with FCI Constructors, Inc. for Construction of La Jolla Village Drive Widening from North Torrey Pines Road to I-5. (University City Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-567) ADOPTED AS RESOLUTION R-303569

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$250,000, within Fund 79001, from CIP-52-362.0, North University Facilities Benefit Assessment Fund, Nobel Drive Extension, to CIP-52-452.0, La Jolla Village Drive - Torrey Pines Road to Villa La Jolla (Project);

Authorizing the appropriation and expenditure of an amount not to exceed \$250,000, CIP-52-452.0, La Jolla Village Drive - Torrey Pines Road, Fund 79001, North University Facilities Benefit Assessment Fund, solely and exclusively, for the purpose of executing Change Order #2 for \$190,000 and \$60,000 in project construction management costs for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

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

Declaring this activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3). Construction work related to the payment to contractor has been completed and was covered under a previously Certified Mitigated Negative Declaration, LDR No. 42-0823, PTS No. 5264 by R-298807, dated January 26, 2004.

STAFF SUPPORTING INFORMATION:

On June 14, 2004, per R-299336 the City Council awarded the construction contract for La Jolla Village Drive from North Torrey Pines Road to Villa La Jolla.

The La Jolla Village Drive project provides a six (6) traffic-lane prime arterial with sidewalks and class 2 bike lanes between North Torrey Pines Road and Gilman Drive and an eight (8) traffic-lane prime arterial from Gilman Drive to Villa La Jolla Drive. It also includes bridge widening and inter-change improvements at La Jolla Village Drive/Gilman Drive over-crossing.

During construction unforeseen costs were encountered. These include additional asphalt paving resulting from unknown roadway sections, replacement of deteriorated conduits of the street lighting and signal system, protection and avoidance of existing utilities, and improvements to the existing SDG&E electric service to meet current standards. In addition, the community had requested special project features that were not part of the original contract. This included construction of a sound wall located along the Gilman Drive eastbound off ramp, additional roadway widening along La Jolla Village Drive between North Torrey Pines Road and La Jolla Scenic Drive to accommodate busses, and modifications to traffic striping and signing. Lastly, there were increased costs for night work and additional construction traffic control to facilitate improved access to the hospital on Villa La Jolla and project site. Therefore, additional funds were needed to complete the project.

The requested actions will allow the City of San Diego to authorize approval of the closeout change order and final payment to the contractor for the construction work. The Change Order #2 is for \$190,000 and the remaining amount of \$60,000 is for construction management.

Previously, Facilities Financing had budgeted the additional funds to complete the project in the North University City Public Facilities Financing Plan and Facilities Benefit Assessment for Fiscal Year 2008. However, due to unanticipated delay, the financing plan will not be approved until February 2008. At the same time, excess funds, leftover from mitigation and landscape maintenance, has been identified in the Nobel Drive Extension Project. Therefore to facilitate timely payment to the contractor, it was determined to transfer excess funds now instead of waiting for the approval of the financing plan.

FISCAL CONSIDERATIONS:

Transfer of \$250,000 within Fund 79001, North University Facilities Benefit Assessment Fund from CIP-52-362.0, Nobel Drive Extension into CIP-52-452.0, La Jolla Village Dr. - Torrey Pines Road to Villa La Jolla. The transfer of funds between the two projects has no impact on the fees collected within Fund 79001, North University Facilities Benefit Assessment Fund.

PREVIOUS COUNCIL COMMITTEE ACTION:

Award of Contract - R-299336 dated June 14, 2004, Certification of MND - R-298807, dated January 26, 2004.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

University City Planning Group and La Jolla Community Planning Association were previously provided status updates and informational meetings of the project by the design team.

KEY STAKEHOLDERS:

City of San Diego, University City Planning Group, FCI Constructors, Inc.

Jarrell/Haas

Aud. Cert. 2800473.

Staff: Marnell Gibson - (619) 533-5213
Michael C. Calabrese - Deputy City Attorney

FILE LOCATION: CONT. – FCI CONSTRUCTORS, INC.

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-107: Joint Participation Agreement with San Diego County Water Authority for Local Investigations and Studies Assistance (LISA) Program Funding. (San Pasqual Community Area. District 5.)

(See Water Department's 2/15/2008 Executive Summary Sheet and memorandum from Beryl Bailey Rayford dated 3/7/2008.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-826) ADOPTED AS RESOLUTION R-303570

Authorizing the Mayor, or his designee, for and on behalf of the City, to make an application to the San Diego County Water Authority (SDCWA) for \$750,000 in matching Local Investigations and Studies Assistance (LISA) Program Funds to conduct the San Pasqual Groundwater Conjunctive Use Study (Study);

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend funds for reimbursement by the SDCWA in the amount of \$750,000 for the Study;

Authorizing the Mayor, or his designee, to enter into and execute a Joint Participation Agreement for LISA Program Funding between the SDCWA and the City;

Declaring that this activity is statutorily exempt from CEQA pursuant to State CEQA Guidelines Section 15262. This determination is based on Section 15004 of the Guideline which provides direction to lead agencies on the appropriate timing for environmental review. This activity will require further review under the provisions of CEQA.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 2/27/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The City of San Diego relies upon imported water from the State Water Project and the Colorado River for approximately 90 percent of its water supply. The City's population is currently more than 1.2 million residents and projections by the area's regional San Diego Associations of Governments (SANDAG), indicate the City's population to increase to over 1.7 million by 2030. The anticipated growth translates into increased water demand. The City therefore, recognizes the critical need to increase reliability of its water system locally, and reduce its reliance on imported water supplies. This can be successfully achieved through the implementation of a

groundwater conjunctive use program, which would allow water to be stored when surplus supplies are available. Groundwater would be extracted during dry periods, when imported water is expensive or not readily available, resulting in water table elevation reduction. Storage room for imported water or natural runoff is thereby created.

In April 2007, SDCWA solicited a Request for Proposal for the LISA Grant-Funding Program. The Water Department submitted a full project proposal for the San Pasqual Groundwater Conjunctive Use Study, and was approved as a recipient of \$750,000 grant funding awarded by the San Diego County Water Authority (SDCWA). As a member agency, the City of San Diego along with SDCWA will help to promote the development of new local water supplies via the Study. It will also contribute to reaching groundwater desalination and storage goals as established by the Long Range Water Resources Plan, adopted by the City Council in December 2002.

The project is not anticipated to result in increased staffing levels as project monitoring and oversight will be done by existing Water Department personnel.

FISCAL CONSIDERATIONS:

This study will validate the feasibility of using the San Pasqual Basin for conjunctive use storage. The Basin presents a valuable opportunity to provide imported water storage benefits and creates a new local water source for the City of San Diego. The overall estimated cost of the proposed studies and investigations is \$1,700,000, with the Conjunctive Use Study Consultant Agreement totaling \$950,000.

San Diego County Water Authority funding for this LISA Program agreement is being derived from groundwater conjunctive use funding provided by the State of California Department of Water Resources as a result of the passage of SB 1765 (1998). The Water Authority Board has approved \$750,000 in matching LISA Program Funds to be provided to the City of San Diego to conduct the study.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Resolution Number R-302745 Authorizing Contract Award and Execution; Expenditure of Funds for Contract Purposes and Taking Related Actions was passed on June 27, 2007 to procure consulting firm Camp Dresser & McKee, Inc. for the San Pasqual Groundwater Conjunctive Use Study Project. The subject item will be presented to the Natural Resources and Culture Committee prior to the Council docket date.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City of San Diego has actively facilitated community and groundwater planning in the San Pasqual Valley and the San Diego region. Currently as part of the Groundwater Management Plan (GMP), the City has conducted four Project Advisory Committee (formed for the purpose of the GMP) meetings since September 2006 and one open house. At least one more Project Advisory Committee meeting/open house is planned for this project. The City anticipates continuing its outreach efforts in San Pasqual during the feasibility study.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Along with the City of San Diego and the San Diego County Water Authority, the San Pasqual/Lake Hodges Planning Group is also an important stakeholder. The citizens of San Diego are equally important stakeholders as the conjunctive use study will result in a region wide resource to store and reuse groundwater effectively.

Ruiz/Barrett

Aud. Cert. 2800648.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-108: Fiscal Year 2008 Homeland Security Grant Program. (Citywide.)

(See memorandum from Beryl Bailey Rayford dated 3/25/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-823) ADOPTED AS RESOLUTION R-303571

Authorizing the Mayor, Chief Operating Officer, or the Deputy Chief Operating Officer for Public Safety/Homeland Security, for and on behalf of the City, to apply for, accept and expend grant funds from the FY 2008 Homeland Security Grant Program as the City's authorized agent;

Authorizing the Mayor, Chief Operating Officer, or the Deputy Chief Operating Officer for Public Safety/Homeland Security, to take all necessary steps to secure the grant funds, and to execute and submit all documents necessary to comply with the FY 2008 Homeland Security Grant Program requirements.

STAFF SUPPORTING INFORMATION:

The City of San Diego has been identified by the Federal Department of Homeland Security (DHS) as the "core city" for the San Diego Urban Area's participation in the Federal FY 2008 Homeland Security Grant Program (HSGP), specifically the Urban Area Security Initiative (UASI). The Urban Area is defined as the 18 incorporated cities in San Diego County, unincorporated areas of the county and the related special districts. As the core city, San Diego will be the grantee and administrator of the UASI Grant for the San Diego Urban Area. The FY 2008 UASI Program provides financial assistance to address the unique multi-discipline planning, operations, equipment, training, and exercise needs of high-threat, high-density Urban Areas, and to assist in building and sustaining capabilities to prevent, protect against, respond to, and recover from threats or acts of terrorism, major disasters, and other emergencies.

The FY 2008 Homeland Security Grant Program is a competitive process requiring Urban Areas to submit applications to formally request funding in support of State and Urban Area Homeland Security Strategies and related program planning documents. For FY 2008, funding for the UASI Program is based on risk analysis methodology and anticipated effectiveness of planned investments. Risk is defined as Threat (likelihood of an attack) plus Vulnerability and Consequence (relative exposure and expected impact of an attack).

The San Diego Urban Area must submit its initial grant application to the State on a date to be determined but expected to be April 17, 2008. We are currently working on developing the application packet. The application will address significant regional needs within the Urban Area as defined in our Regional Urban Area Security Strategy and will include investments in the Regional Terrorism Threat Assessment Center, Interoperable Communications, Regional Information and Data Sharing, Strengthening Emergency Planning and Citizen Protection and Preparedness (to include the integration of Special Needs Populations), Critical Infrastructure Protection, CBRNE/WMD Detection and Response Capabilities, and Catastrophic Planning. The San Diego Urban Area was awarded \$15.9 million under the competitive FY 2007 UASI Grant; however, the State retained 20%, which resulted in a net award of \$12.7 million. Award notifications for the 2008 grant funds are to be announced on or about mid-July 2008.

Under the HSGP, the City of San Diego is also eligible to receive a share of the funding awarded to the County of San Diego as the core county for the San Diego region under the State Homeland Security Program. This funding is generally earmarked to promote comprehensive regional exercises, planning and coordination as well as to support critical terrorism prevention activities. The Office of Homeland Security will be requesting funds under this grant for the City's participation in exercises and for law enforcement activities that in the past had been funded through what was a separate grant program known as the Law Enforcement Terrorism Prevention Program, but now consolidated into the overall HSGP.

All funding must be allocated in support of the goals and objectives identified in the San Diego Urban Area Homeland Security Strategy that was developed as a prerequisite to participation in the HSGP and updated in 2007. A regional metropolitan area approach was taken in the development and implementation of this program by involving all 19 jurisdictions and mutual aid partners. While the focus of this program is to strengthen homeland security preparedness, the benefits will be seen in all of the emergency preparedness programs in the region.

FISCAL CONSIDERATIONS:

There is no non-federal match or cost share required for grants under the HSGP covered by this resolution. However, these grants are reimbursement in nature requiring the City, as the core city in the urban area, to expend funds prior to requesting reimbursement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Identified below.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The regional approach of the San Diego Urban Area's grant application impacts the 18 incorporated cities in San Diego County, the unincorporated areas of the county and the related special districts as well as contiguous jurisdictions and mutual aid partners. These key stakeholders will derive significant improvement in response capabilities with better prepared, trained and equipped first responders.

The citizens of the San Diego region will benefit from an expanded public outreach program designed to increase public and private business involvement in emergency preparedness activities. This outreach will achieve a dramatic increase in the level of resident preparedness and self-reliance in the wake of a terrorism-related event or catastrophic natural disaster among the numerous diverse populations in the region. This program will save lives in both the general and special needs populations. A better prepared community, including the business community, will unburden first responders and other emergency services personnel and allow them to engage in high priority life saving activities. It will also speed recovery and reduce economic loss.

Olen

Staff: Donna Faller - (619) 533-6763
Lori M. Thacker - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-109: State Block Grant – Citizens Options For Public Safety.

STAFF’S RECOMMENDATION:

Adopt the following resolution:

(R-2008-785) ADOPTED AS RESOLUTION R-303572

Authorizing the Mayor, or his designee, including the Chief of Police, for and on behalf of the City of San Diego, to submit an application to, accept, expend and manage the grant funds;

Declaring this authority includes the execution of all aspects of fund and program operation, including any amendments, extensions, augmentations, or renewals from the State of California for identical or closely related purposes; and to certify that the City will comply with all applicable statutory or regulatory requirements;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend these funds up to \$2,532,156 if grant funding is secured;

Declaring that this authorization shall be valid for a period of up to five years, provided funding for this purpose is made available by the State of California;

Declaring that any resources received hereunder shall be used to supplement and not to supplant expenditures controlled by this body.

STAFF SUPPORTING INFORMATION:

Please note: There is NO application form for these grant funds. Once approved in the State budget, they are transferred automatically.

The San Diego Police Department will receive approximately \$2,532,156 from the State of California under Assembly Bill 3229, “Citizen Options for Public Safety” (State COPS). The State designates these funds for “front line law enforcement services,” and requires that the City Council appropriate and approve these funds in accordance with the request of the Chief of Police.

The San Diego Police Department plans to use these funds for police automation, vehicle communications, safety, forensic, training, overtime, and miscellaneous equipment, maintenance and resources as needs are identified. Expenditures will contribute to the safety and efficiency of law enforcement and crime prevention services throughout San Diego.

Please note: At present, there is NO application form for these grant funds. Once approved in the State budget, they are transferred automatically.

FISCAL CONSIDERATIONS:

There is no requirement for matching funds, and no requirement to continue grant funded activities or expenditures after grant funds are depleted or terminated. State law requires that these funds supplement and not supplant funds otherwise available to law enforcement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This grant is funded annually. Council has approved these same planned uses yearly.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Lansdowne/Olen

Staff: Donna J. Warlick- (619) 531-2221
Mary T. Nuesca - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-110: Canyonside Community Park Sports Field Lighting Upgrade. (Rancho Peñasquitos Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-793) ADOPTED AS AMENDED AS RESOLUTION R-303573

Amending the Fiscal Year 2008 Capital Improvement Program Budget by adding CIP-29-938.0, Canyonside Community Park Sports Field Lighting Upgrade;

Amending the Fiscal Year 2008 Capital Improvements Program Budget for CIP-29-938.0, Canyonside Community Park Sports Field Lighting Upgrades, by increasing the budget amount by \$345,000; \$205,000 in Fund No. 39085, Peñasquitos East Park Development Fund and \$140,000 in Fund No. 392190, Black Mountain Ranch Development Agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$205,000 from Fund No. 39085, Peñasquitos East Park Development, and \$140,000 from Fund No. 392190, Black Mountain Ranch Development Agreement, solely and exclusively for the purpose of providing funds for the Canyonside Community Park Sports Field Lighting Upgrade, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures 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.

STAFF SUPPORTING INFORMATION:

The sports field lighting system to be upgraded was originally installed in 1986 as a part of the park's original development. The proposed upgrades will convert the existing luminaries to energy efficient luminaries, reduce energy use by fifty percent, provide the appropriate light levels for the park's recreational activities, reduce maintenance and provide better control of the lighting to reduce light spill onto adjacent properties.

The Rancho Peñasquitos Recreation Council developed a needs list of various park improvements in the Rancho Peñasquitos Community and requested funding from the Rancho Peñasquitos Community Planning Board (RPCPB). One of the projects the Recreation Council was seeking funding for was the upgrades to the sports field lighting at fields 6, 7, 8 and 9 within Canyonside Community Park. The Rancho Peñasquitos FBA and Community Funds subcommittee of the RPCPB reviewed the funds available in various community fund accounts and recommended RPCPB approval of a funding strategy for the lighting upgrades. During their September 5, 2007 meeting, the RPCPB unanimously approved using \$345,000; Fund No. 39085, Peñasquitos East Park Development Fund (\$205,000) and Fund No. 392190, Black Mountain Ranch Development Agreement Fund (\$140,000) for this purpose.

FISCAL CONSIDERATIONS:

The proposed sports field lighting upgrades will reduce energy consumption thereby reducing energy costs to light the recreational activities within the park. The modern light fixtures will require less maintenance than the current fixtures.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Rancho Peñasquitos Community Planning Board and the Rancho Peñasquitos Recreation Council worked together to secure the funding for the lighting upgrades.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

- Rancho Peñasquitos Community Planning Board
- Rancho Peñasquitos Recreation Council
- Rancho Peñasquitos Community
- Park and Recreation Department

EQUAL OPPORTUNITY CONTRACTING:

The approval of the establishment of CIP-29-938.0 and \$345,000 increase to Canyonside Community Park Sports Field Lighting Upgrades, and authorization of the expenditure to complete this project under the Mayor's authority. However, prior to award of any contract, a work force report, and if necessary, an Equal Opportunity Employment Plan shall be submitted. EOC staff will evaluate the bidder's compliance with contract goals and the good faith effort. Failure to comply with the programs requirements will lead to the bid being declared non-responsive.

Funding Agency: City of San Diego
Prevailing Wages: Prevailing Wages do not apply.

Oskoui/Jarrell

Aud. Cert. 2800646.

Staff: Gus Button - (619) 533-5107
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

MOTION BY HUESO TO ADOPT THE RESOLUTION AS AMENDED TO AUTHORIZE THE CITY AUDITOR AND COMPTROLLER UPON ADVICE FROM THE ADMINISTERING DEPARTMENT TO TRANSFER EXCESS BUDGETED FUNDS, IF ANY, TO THE PEÑASQUITOS LINEAR PARK OFF-LEASH DOG AREA PROJECT. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-111: Authorizing Retention, Payment for Invoices for the Brown Law Group for Legal Services in Jacqueline Lindsay v. Office of the City Attorney, City of San Diego; Karen Heumann, Et Al.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-804) ADOPTED AS RESOLUTION R-303574

Authorizing the City Attorney to retain Brown Law Group for the provision of legal services in Jacqueline Lindsay v. Office of the City Attorney, City of San Diego; Karen Heumann, et al., San Diego Superior Court Case No. 37-2007-00081422-CU-WT-CTL, in an amount not to exceed \$150,000;

Authorizing the City Auditor and Comptroller to expend up to \$150,000 from the Public Liability Fund.

SUPPORTING INFORMATION:

Requested action relates to funding for the matter Jacqueline Lindsay v. Office of the City Attorney, City of San Diego; Karen Heumann, et al., San Diego Superior Court Case, No. 37-2007-00081422-CU-WT-CTL. This complaint was filed in November 2007. Ms. Lindsay was a Deputy City Attorney for 17 years. Due to this inherent conflict of interest we are recommending the City to retain the Brown Law Group to defend Assistant City Attorney Karen Heumann and the City of San Diego.

FISCAL CONSIDERATIONS:

The Council is being asked to authorize and expend up to \$150,000 from the Public Liability Fund for the retention of the Brown Law Group.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Council was informed in Closed Session on February 25, 2008 for the need to retain the Brown Law Group for this action. Councilmember Frye made a motion and was seconded by Council President Scott Peters. The motion passed 8-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Brown Law Group

Chung

Aud. Cert. 2800626.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-112: Authorizing Continued Retention, Payment for Invoices and Future Funding for the Brown Law Group for Legal Services in Debra Bevier & Deborah Hollingsworth v. City Attorney Michael Aguirre.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-802) ADOPTED AS RESOLUTION R-303575

Authorizing the City Attorney to continue the retention of Brown Law Group for the provision of legal services in Bevier and Hollingsworth v. City Attorney Michael J. Aguirre, San Diego Superior Court Case No. GIC787380, in an amount not to exceed \$250,000;

Authorizing the City Auditor and Comptroller to expend up to \$250,000 from the Public Liability Fund.

SUPPORTING INFORMATION:

Requested action relates to additional funding for the matter Debra Bevier and Deborah Hollingsworth v. City Attorney Michael J. Aguirre, San Diego Superior Court Case, No. GIC787380. On May 21, 2007, by Document Number C-14212, the City Council previously authorized the retention of the Brown Law Group in an amount not to exceed \$150,750.

Discovery is presently being conducted in this matter and trial is set for May 2, 2008.

FISCAL CONSIDERATIONS:

The Council is being asked to authorize and expend up to \$250,000 from the Public Liability Fund for the continued retention of the Brown Law Group.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Council was informed in Closed Session on February 25, 2008, for the need for additional authorized funding. Councilmember Frye made a motion and was seconded by Council President Scott Peters. The motion passed 8-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Brown Law Group.

Chung

Aud. Cert. 2800624.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-113: Authorizing Continued Retention, Payment of Invoices, and Future Reserve Funding for the Brown Law Group for Legal Services in Bevier and Platt v. City of San Diego.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-803) ADOPTED AS RESOLUTION R-303576

Authorizing the City Attorney to continue the retention of Brown Law Group for the provision of legal services in Bevier and Platt v. City of San Diego, San Diego Superior Court Case No. GIC874401, in an amount not to exceed \$35,000;

Authorizing the City Auditor and Comptroller to expend up to \$35,000 from the Public Liability Fund.

SUPPORTING INFORMATION:

Requested action relates to additional funding for the matter *Bevier and Platt v. City of San Diego*, San Diego Superior Court Case No. GIC874401. On May 21, 2007, by Document Number C-14213, the City Council previously authorized the retention of the Brown Law Group in an amount not to exceed \$13,500. Judge Barton set aside the administrative decision of the City on June 7, 2007, and the City is now in the process of arranging a rehearing on both of these applications.

Risk Management has asked that the Brown Law Group remain on this matter to coordinate and oversee the rehearing of this matter.

FISCAL CONSIDERATIONS:

The Council is being asked to authorize and expend up to \$35,000 from the Public Liability Fund for the continued retention of the Brown Law Group.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Council was informed in Closed Session on February 25, 2008, for the need for additional authorized funding. Councilmember Frye made a motion and was seconded by Council President Scott Peters. The motion passed 8-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Brown Law Group

Chung

Aud. Cert. 2800625.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-114: Authorizing Continued Retention of Latham & Watkins and Harvey Levine, Levine Steinberg, et al., as Co-Counsel to Prosecute Bad Faith Case in Insurance Company of the State of Pennsylvania v. City of San Diego.

CITY ATTORNEY’S RECOMMENDATION:

Adopt the following resolution:

(R-2008-805) ADOPTED AS RESOLUTION R-303577

Authorizing the City Attorney to continue retention of Latham & Watkins and Levine Steinberg for the provision of legal services in Insurance Company of the State of Pennsylvania, et al. v. City of San Diego, USDC Case No. 02CV0693, in an additional amount not to exceed \$300,000;

Authorizing the City Auditor and Comptroller to expend up to \$300,000 from the Public Liability Fund.

SUPPORTING INFORMATION:

The City’s insurers, Insurance Company of the State of Pennsylvania (“ISOP”), and other AIG insurers, sued the City in federal court in 2002, seeking a finding of no coverage for the City’s defense (attorneys’ fees) and indemnity (damages) in the De La Fuente cases (Otay Acquisitions v. City, S.D.S.C. Case No. GIC 753247; National Enterprises v. City, S.D.S.C. Case No. GIC 730011; and Border Business Park, Inc. v. City, S.D.S.C. Case No. GIC 692794). The City counter-claimed to establish its right to a defense and for bad faith.

In March 2005, the Ninth Circuit Court of Appeals reversed the District Court and held ISOP has a duty to defend the City. Despite that ruling, ISOP has continued to file motions in the District Court disputing its duty to defend and the amount of fees it must reimburse to the City. In March 2006, the District Court issued a judgment that ISOP must pay the City’s defense costs, subject to statutory limits (for now).

The District Court has also lifted a stay order and is allowing the City to pursue its bad faith claim against ISOP for its failure to defend.

As a result of this successful litigation against the City's insurance carriers, approximately \$5,637,427 of insurance proceeds already have been received to help defray the costs of the representation for defense of the De La Fuente cases and for payment of damages (if any). Unlike the AIG insurers, another City insurer, United National, without litigation has paid one occurrence policy limit (\$2 million), which the City can use to fund any settlement or liability in the De La Fuente cases. This amount is included in the total above.

In order for the City to recover damages from ISOP, the City has been pursuing its bad faith claim. This has required extensive discovery, motion practice and trial preparation. It is the view of outside counsel (Latham and co-counsel, Harvey Levine) that, while there can be no guarantees of recovery, the City's duty to defend bad faith case is a strong one because (1) ISOP's own personnel recognized their duty to defend in the claims files; (2) ISOP agreed in writing to defend in 2001; (3) ISOP nonetheless delayed (for months and years at a time) payment of the City's defense costs, and repeatedly stopped all payment for months and years. Among other things, damages recoverable by the City may consist of (1) unpaid defense costs; (2) the shortfall between ISOP's partially paid defense costs and defense counsels' actual fees; (3) interest on these amounts; (4) the cost of the coverage litigation; and (5) punitive damages.

FISCAL CONSIDERATIONS:

With this action the Council will authorize the City Auditor and Comptroller to expend up to \$300,000 from the Public Liability Fund to cover the portion of the Latham & Watkins and Harvey Levine, Levine Steinberg representation in the bad faith case.

Latham & Watkins will proceed with the case on an hourly billing basis. In addition, co-counsel Harvey Levine of Levine Steinberg, et al. will continue to be reimbursed under a contingent basis and will be paid at the conclusion of the case pursuant to the terms of his retainer agreement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City Council voted in Closed Session on December 4, 2007, on Item CS-2. The motion was made by Councilmember Madaffer and the second by Council President Peters. The item passed unanimously 8 to 0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

- Law firm of Latham & Watkins, Kristine Wilkes, lead partner
- Law firm of Levine Steinberg et al, Harvey Levine

McGrath

Aud. Cert. 2800627.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-115: Settlement of Property Damage Claim to La Jolla Country Club, Inc.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-827) ADOPTED AS RESOLUTION R-303578

A Resolution approved by the City Council in Closed Session on October 6, 2007, by the following vote: Council President Peters-recused; Faulconer-yea; Atkins-yea; Council President Pro Tem Young-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Hueso-yea.

Authorizing the sum of Seventy Thousand Dollars (\$70,000) to be paid from the Public Liability Fund in settlement of each and every claim against the City, its agents and employees, arising from the Litigation;

Authorizing the Public Liability Fund to issue a check in the amount of \$70,000 payable to La Jolla Country Club, Inc.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims brought by La Jolla Country Club, Inc.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This settlement has been heard in closed session on October 6, 2007, the City Council approved the settlement amount of \$70,000. The motion was made by Councilmember Atkins and seconded by Councilmember Frye. The motion passed 7 to 0 with Council President Peters recused.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Brock/Lewis

Aud. Cert. 2800667.

Staff: Mike Gomez - (619) 236-7096
Carmen Brock - Deputy City Attorney

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

MOTION BY HUESO TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-116: Settlement of Property Damage Claim of Orlando B. Foote and Ollie Linda Foote.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-828) ADOPTED AS RESOLUTION R-303579

A Resolution approved by the City Council in Closed Session on Tuesday, January 29, 2008, by the following vote: Council President Peters-yea; Faulconer-not present; Atkins-yea; Young-yea; Maienschein-yea; Frye-yea; Council President Pro Tem Madaffer-yea; Hueso-yea.

Authorizing the sum of One Hundred Thirty Five Thousand Dollars (\$135,000) to be paid from the Public Liability Fund in settlement of all of Plaintiffs' claims against the City, its agents, and employees, arising from the Litigation.

Authorizing the Public Liability Fund to issue a check in the amount of \$135,000 payable to Orlando B. Foote and Ollie Linda Foote, as joint tenants.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims brought by Orlando B. Foote & Ollie Linda Foote.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was heard in closed session on January 29, 2008, the City Council approved the settlement amount of \$135,000. City Council voted 7 to 0 to approve with Councilmember Kevin Faulconer absent. The motion was made by Council President Pro Tem Jim Madaffer and seconded by Council President Scott Peters.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Brock/Lewis

Aud. Cert. 2800666.

Staff: Mike Gomez - (619) 236-7096
Carmen Brock - Deputy City Attorney

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-117: Settlement of Personal Injury Claim of Chris J. Cooper.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-760) ADOPTED AS RESOLUTION R-303580

A Resolution approved by the City Council in Closed Session on February 26, 2008, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Young-yea; Maienschein-yea; Frye-yea; Council President Pro Tem Madaffer-yea; Hueso-yea.

Authorizing the sum of \$57,500 to be paid from the Public Liability Fund (81140) in settlement of each and every claim against the City, its agents and employees, arising from the Litigation;

Authorizing the City Auditor and Comptroller to issue a check in the amount of \$57,500 payable to Robert Schroth and James Cooper.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims brought by Chris J. Cooper.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This settlement was heard in closed session on February 26, 2008 the City Council approved the settlement amount of \$57,500. The motion passed 8-0. The motion was made by Councilmember Atkins with a second by Councilmember Faulconer.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Boardman/Lewis

Aud. Cert. 2800668.

Staff: Mike Gomez - (619) 236-7096
Jane M. Boardman - Deputy City Attorney

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-118: Sewer Easement Vacation in Parcel B of Lot Line Adjustment Document No. 2007-0270554 O.R. (La Jolla Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-796) ADOPTED AS RESOLUTION R-303581

Stating that the Council of the City of San Diego finds that:

- a) the public service easement to be abandoned herein does not contain public utility facilities or does not contain active public utility facilities that would be affected by the abandonment;
- b) The easement has been superseded by relocation and there are no other public facilities located within the easement;
- c) There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated;
- d) The public will benefit from the action through improved utilization of the land made available by the abandonment;
- e) The abandonment is consistent with any applicable land use plan; and,
- f) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the easement was acquired no longer exists.

Declaring that the public service sewer easement located within Parcel "B" of Lot Line Adjustment recorded on April 20, 2007 as Document No. 2007-027995 O.R., as more particularly described in the legal description marked as Exhibit "A," and as shown on Drawing No. 20713-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered summarily abandoned;

Declaring that the City Clerk shall cause a certified copy of this Resolution, with attached Exhibits, attested by her under seal, to be recorded in the Office of the County Recorder from and after the date of recordation of this Resolution, the abandoned public service easement shall no longer constitute a public service easement. Upon such recordation, the abandonment is complete.

Declaring that the Council of the City of San Diego finds that this action is exempt from the CEQA pursuant to State CEQA Guidelines Section 15301.

STAFF SUPPORTING INFORMATION:

This sewer easement vacation is located in the La Jolla Community Plan area, southerly of the La Jolla Scenic Drive South. This project consists of vacating a sewer easement that was granted to the City over five years ago at no cost to the City. The existing facilities located within this easement have been superseded with a new sewer as shown on Engineering Drawing No. 34442-D. The associated easements were granted as shown on Engineering Drawing No. 19139-B. There are no other public facilities located within the easement, and there is no present or prospective public use of the existing easement in its present location.

FISCAL CONSIDERATIONS:

There are no fiscal impacts in connection with this action. All costs are being paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Although no Community Planning Group recommendation is legally required, this project was routed to the Community Planning Group and no comments were received.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Ryan Stone.

Broughton/Anderson

NOTE: This item is not subject to Mayor's veto.

Staff: Geraldine Bollenbach - (619) 446-5417
Shirley R. Edwards – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-119: Reappointments to the Board of Library Commissioners.

(See memorandum from Mayor Sanders dated 3/17/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-811) ADOPTED AS RESOLUTION R-303582

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the Board of Library Commissioners, for a term ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Susan Atkins (Point Loma, District 2) (Reappointment)	March 1, 2010
Matthew Hervey (Point Loma, District 2) (Reappointment)	March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-120: Amending the 2008 Legislative Calendar to Change the Starting Times of Council Meetings on May 27, 2008 and September 2, 2008 from 10:00 A.M. to 9:00 A.M.

(See memorandum from Council President Peters dated 3/25/2008.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-834) ADOPTED AS RESOLUTION R-303583

Amending the schedule of meetings for the City Council, Standing Committees, and Council Budget Hearings of the City Council for the period January 1, 2008 through December 31, 2008, to change the starting times of the Council meetings on May 27, 2008 and September 2, 2008, from 10:00 a.m. to 9:00 a.m. to accommodate closed session and accompanying public testimony on Tuesday Council meetings following Monday holidays.

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-121: Salam Hasenin Day.

**COUNCIL PRESIDENT PETERS', COUNCIL PRESIDENT PRO TEM MADAFFER'S,
AND COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-809 Cor. Copy) ADOPTED AS RESOLUTION R-303584

Commending and thanking Salam Hasenin for the imprint he has left throughout his twenty-year tenure with the City of San Diego;

Proclaiming April 4, 2008, to be "Salam Hasenin Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-122: David Allsbrook Day.

COUNCILMEMBER FAULCONER'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-830) ADOPTED AS RESOLUTION R-303585

Congratulating and offering appreciation to David Allsbrook on the occasion of his 30th anniversary with Centre City Development Corporation, and proclaiming March 26, 2008, as "David Allsbrook Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



* [ITEM-123](#): Mingei International Museum Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-829) RETURNED TO COUNCIL MEMBER ATKINS

Commending and congratulating the Mingei International Museum for 30 years of success in providing our City with invaluable art and cultural awareness and education;

Proclaiming May 4, 2008, to be “Mingei International Museum Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO COUNCIL MEMBER ATKINS' OFFICE. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-124: Lupus Alert Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-835) ADOPTED AS RESOLUTION R-303586

Proclaiming April 1, 2008, to be "Lupus Alert Day" in the City of San Diego, and commending the Lupus Foundation of Southern California for its continued commitment to educate and support those residents living with lupus in San Diego and Imperial Counties.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-125: Chris and Eric Reading Day.

COUNCILMEMBER HUESO'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-790) ADOPTED AS RESOLUTION R-303587

Proclaiming March 27, 2008, to be "Chris and Eric Reading Day" in recognition of their collaboration and efforts in improving the lives of others.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-126: Excusing Council President Pro Tem Madaffer from Attending the April 16, 2008 Land Use and Housing Committee Meeting.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-807) ADOPTED AS RESOLUTION R-303588

Excusing Council President Pro Tem Jim Madaffer from attending the regularly scheduled Land Use and Housing Committee meeting of April 16, 2008.

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-127: Excusing Council President Pro Tem Madaffer from Attending the April 16, 2008 Budget and Finance Committee Meeting.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-806) ADOPTED AS RESOLUTION R-303589

Excusing Council President Pro Tem Jim Madaffer from attending the regularly scheduled Committee on Budget and Finance meeting of April 16, 2008.

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-128: Excusing Councilmember Toni Atkins from Attending the Audit Committee Meeting on March 10, 2008.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-787) ADOPTED AS RESOLUTION R-303590

Excusing Councilmember Toni Atkins from attending the regularly scheduled Audit Committee meeting of March 10, 2008, because she was on official business in Sacramento at that time.

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-129: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-698) ADOPTED AS RESOLUTION R-303591

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

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

FILE LOCATION: GEN'L – State of Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-130: 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-2008-813) ADOPTED AS RESOLUTION R-303592

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

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-131: 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-2008-751) ADOPTED AS RESOLUTION R-303593

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: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-132: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-620) ADOPTED AS RESOLUTION R-303594

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

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

FILE LOCATION: GEN'L – State of Emergency Regarding the Landslide on Mount Soledad

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:52 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-330: Extension of Agreement with Mercer Consulting for Additional Services Related to the Proposed Pension Plan.

(See memoranda from Jay Goldstone dated 3/17/2008 and Beryl Bailey Rayford dated 3/28/2008.)

STAFF'S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-2008-132) INTRODUCED AND ADOPTED AS
ORDINANCE O-19742 (NEW SERIES)

Introduction an adoption of an Ordinance amending Ordinance No. O-19652 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2008 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year", to transfer \$185,000 from the Risk Management Fund balance and to appropriate said \$185,000 to the Risk Management Department (Fund 50061, Dept. 084);

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$185,000 from the Risk Management Department (Fund 50061, Dept. 084) for purposes of funding additional services by Mercer Consulting related to the proposed pension plan;

Authorizing the Mayor to negotiate an amendment to the current agreement with Mercer Consulting for additional services related to the proposed pension plan in the amount of \$185,000.

STAFF SUPPORTING INFORMATION:

Like most state and local governments the City is challenged with providing and funding retirement and pension plans. In March 2007 the City issued a request for proposal (RFP) for selection of a consultant to address these issues.

Mercer Consulting was selected based on their familiarity with public and private sector retirement/pension plans and their successfully demonstrated ability to perform consulting work of a similar scope and nature.

The City entered into an agreement with Mercer Consulting to conduct a comprehensive analysis of the City's existing retirement and pension plans and to assist the City with plan design. Mercer has completed this assignment and the City has proposed the new plan to the City's labor organizations; however, additional services and meetings with Mercer and the labor organizations are required. Although these services were not part of the core requirements and deliverables they fall within the scope of work and were included in the RFP as optional consulting services, pricing included. Accordingly, a contract extension is required in order to complete the project and honor the City's obligations in the meet and confer process.

FISCAL CONSIDERATIONS:

The cost of the original contract was not to exceed \$250,000. This request is for an additional \$185,000, for a total not to exceed of \$435,000. Funding for this project is available in the Risk Management Fund, Fund 50061.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On March 4, 2008, City staff and Mercer presented the proposed pension plan design to the City Council in closed session.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

With the exception of sworn public safety employees, the proposed pension plan affects all new City employees hired after December 31, 2007.

VanDeweghe

Aud. Cert. 2800660.

Staff: Greg Bych - (619) 236-6651
Lori Thacker - Deputy City Attorney

NOTE: Today's action is the second public hearing and the introduction and adoption of the ordinance. See Item S500 on the docket of Tuesday, April 1, 2008, for the first public hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:56 p.m. – 4:30 p.m.)

MOTION BY FAULCONER TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-331: Preparation of Salary Ordinance for FY 2008-2009.

PERSONNEL DIRECTOR'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-134) CONTINUED TO MONDAY, APRIL 21, 2008

Introduction of an Ordinance Establishing a Schedule of Compensation for Officers and Employees of the City of San Diego for the Fiscal Year 2008-2009.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:41 p.m. – 5:43 p.m.)

MOTION BY ATKINS TO CONTINUE TO MONDAY, APRIL 21, 2008, FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-not present.



ITEM-332: Two actions related to Community Parking District Advisory Board Conflict of Interest Code. (City Heights, Normal Heights, Kensington, North Park, Golden Hill, Pacific Beach, Uptown, Old San Diego, Centre City, and La Jolla Community Areas. Districts 1, 2, 3, and 7.)

(See City Attorney Reports dated 2/12/2008 and 2/22/2008 [Revised Report].)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-858) RETURNED TO THE CITY ATTORNEY

Amending Council Policy No. 100-18 titled "Community Parking District Policy";

Instructing the City Clerk to add the aforesaid to the Council Policy Manual.

Subitem-B: (R-2008-859) RETURNED TO THE CITY ATTORNEY

Approving the model code set forth at Cal. Code Regs. tit. 2, §18730, together with Appendix A and Appendix B as the listed Community Parking District Advisory Boards' Conflict of Interest Code;

Declaring that a copy of Appendix A and Appendix B, the Community Parking District Advisory Boards' Code, as adopted, be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the amended Conflict of Interest Code shall file their statements of economic interest with the City Clerk;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Community Parking District Advisory Boards becomes effective upon the date of final passage of this resolution, and shall remain effective until and unless the Fair Political Practices Commission determines that no such code is required for the Community Parking District Advisory Boards;

Declaring that this activity is not a project and therefore not subject to California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

SUPPORTING INFORMATION:

The City Attorney recently opined that the La Jolla CPD Advisory Board is subject to the Political Reform Act's conflict of interest regulations and disclosure requirements. By extension, each of the other five CPDs would be subject to such regulations and requirements. Pursuant to the San Diego Municipal Code, the City Council is vested with the authority to review and adopt conflict of interest codes for the City's boards and commissions. Upon adoption of such a code by the City Council, the members are required to file financial disclosure forms. The level of disclosure required by each reporting individual is based on the responsibilities and authority of the particular board or commission on which the individual serves.

The conflict of interest code offered for Council consideration as part of this action pertains to the City's six Community Parking District Advisory Boards. The manner of organization of one or more of the boards, including the La Jolla CPD advisory board, raises a unique legal issue that the City Attorney addresses in the report.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:32 p.m. – 5:36 p.m.)

MOTION BY MADAFFER TO RETURN TO THE CITY ATTORNEY FOR ADDITIONAL WORK AND OPTIONS. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-333: Centre City Redevelopment Project Tax Allocation Housing Bonds, Series 2008A. (Districts 2 and 8.)

(See Centre City Development Corporation's Report No. CCDC-08-07/CCDC-08-04; and memorandum from Beryl Bailey Rayford dated 4/1/2008)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-831) ADOPTED AS RESOLUTION R-303597

Approving the Financing of the Centre City Redevelopment Project by the Redevelopment Agency of the City of San Diego;

Approving the bond issuance of up to \$69,000,000 of its obligations, tentatively titled Redevelopment Agency of the City of San Diego Centre City Redevelopment Project Tax Allocation Housing Bonds, Series 2008A (Taxable) (Bonds), the proceeds of which will be used to finance new projects relating to low and moderate income housing within the Project area.

SUPPORTING INFORMATION:

The Fiscal Year 2008 ("FY08") Budget includes a provision of \$50.4 million net proceeds from a Tax Allocation Housing Bond. The sale of Housing Bonds will provide the necessary funds to implement the FY08 Budget by leveraging the 20% Low and Moderate Income Housing Funds tax increment.

FISCAL CONSIDERATIONS:

The sale of Housing Bonds will utilize the 20% low and moderate tax increment revenue for debt service of approximately \$8.0 million annually over a 12 year period.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On January 30, 2008, the Corporation voted to approve this item as presented. On March 5 and on March 13, 2008, the Disclosure Practices Working Group discussed and approved the Preliminary Official Statement relating to the proposed Housing Bonds.

CENTRE CITY ADVISORY COMMITTEE'S RECOMMENDATION: None.

OTHER RECOMMENDATIONS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Agency is authorized to issue bonds for the purpose of financing the costs of a redevelopment project pursuant to Part I commencing with Section 33000 of Division 24 of the California Health and Safety Code of the State of California.

The proceeds by the sale of the bonds will be used for various low and moderate income housing projects including, but not limited to, the Ninth and Broadway development, land acquisition for a permanent homeless shelter, supportive housing, and other projects that may be feasible.

Presently, interest rates are favorable and it's recommended that the proposed tax allocation bonds be issued.

The City Council, in a companion item, is required to adopt a resolution authorizing the Agency to issue bonds. The current schedule anticipates this item to be heard by Public Facilities Financing Authority in late April, a sale of bonds in May, and a closing in late May.

Alessi/Graham

NOTE: See the Redevelopment Agency Agenda of 4/15/2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:34 p.m. – 6:34 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.

ITEM-334: Annual Reports of the Redevelopment Agency. (Districts 2, 3, 4, 5, 6, 7, and 8.)

(See Report to the City Council No. 08-050.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-570) RETURNED TO THE MAYOR

Accepting the Fiscal Year 2003 and 2004 Annual Reports of the Redevelopment Agency of the City of San Diego submitted pursuant to California Health and Safety Code, Division 24, Part I;

Accepting the Fiscal Year 2003 and 2004 Annual Financial Reports of the Redevelopment Agency of the City of San Diego, submitted pursuant to California Health and Safety Code, Division 24, Part I;

Declaring that this activity is not a "project" and is therefore exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

California Redevelopment Law requires that redevelopment agencies present an Annual Report to its legislative body within six months of the end of each fiscal year. The Redevelopment Agency of the City of San Diego did not produce Annual Reports for recent years. This circumstance was reported to the Agency on May 4, 2007 and is attached to the Report to the City Council as reference. The Agency recently initiated production of Annual Reports, the status of which is as addressed in the Report to the City Council. The reports for Fiscal Years 2003 and 2004 have been completed and are ready for acceptance by the City Council.

FISCAL CONSIDERATIONS: None.

PREVIOUS AGENCY, COUNCIL and/or COMMITTEE ACTION:

At the March 27, 2007 meeting of the Redevelopment Agency, the Agency directed staff to respond to a public comment as to why annual reports for the Agency were not produced in recent years. Staff provided a response to the Agency Board on May 4, 2007. Additionally, the Annual Financial Reports for Fiscal Years 2003 and 2004 were reviewed by the Audit Committee on September 10, 2007. The Committee voted 3-0 to forward the reports to the Agency with a recommendation to receive and file the reports.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The general public and investment community will have access to this information. The Agency is pleased to issue these reports and will continue to progress on the development and issuance of the remaining backlogged reports.

Weinrick/Anderson

Staff: Scott Mercer - (619) 236-6242
Huston Carlyle – Chief Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:05 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-335: Two actions related to Sabre Springs Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2009. Approve the Sabre Springs Public Facilities Financing Plan – Fiscal Year 2009; Adopt a Resolution of Intention to designate an area of benefit for a Facilities Benefit Assessment (FBA) in Sabre Springs. (Sabre Springs Community Area. District 5.)

(See Report to Council No. 08-010. Sabre Springs Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2009, January 2008 DRAFT.)

NOTE: Public Hearing will be held on May 20, 2008.

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2008-789) ADOPTED AS RESOLUTION R-303598

Resolution of the Council of the City of San Diego approving the Sabre Springs Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2009.

Subitem-B: (R-2008-837) ADOPTED AS RESOLUTION R-303599

Resolution of the Council of the City of San Diego declaring its intention to designate an area of benefit in Sabre Springs and setting the time and place for holding a public hearing thereon.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 2/20/2008, LU&H voted 3-0 to approve. (Councilmembers, Atkins, Madaffer, and Hueso voted yea. Councilmember Maienschein not present.)

OTHER RECOMMENDATIONS:

The Sabre Springs Planning Group on January 16, 2008, voted (8-0) to support the proposed Sabre Springs Public Facilities Financing Plan – Fiscal Year 2009.

SUPPORTING INFORMATION:

REQUESTED ACTION:

(1) Approve the Sabre Springs Public Facilities Financing Plan – Fiscal Year 2009; (2) Adopt a Resolution of Intention to designate an area of benefit for a Facilities Benefit Assessment (FBA) in Sabre Springs; (3) Adopt a Resolution of Designation for the FBA in Sabre Springs; and (4) Approve the setting of Development Impact Fees (DIF) consistent with the FBA in Sabre Springs for those developments which have never been assessed or otherwise agreed to pay an FBA.

STAFF RECOMMENDATION:

Approve the Sabre Springs Public Facilities Financing Plan - Fiscal Year 2009; rescind the existing Facilities Benefit Assessments (FBA) and Development Impact Fees (DIF) and establish new FBA and DIF for Sabre Springs.

EXECUTIVE SUMMARY:

The proposed financing plan details the public facilities that will be needed through the ultimate development of Sabre Springs and for the projected population at full community development. The community of Sabre Springs is almost entirely developed, with one remaining undeveloped parcel. There is also only one remaining public facilities project, a Class I bicycle path. The estimated cost of this project is \$1,600,000, with FBA funding of \$1,100,000 (69%) and SANDAG funding of \$500,000 (31%). The development of the remaining parcel, and the completion of the bicycle project, are both anticipated in FY 2009.

The goal of the FBA is to ensure that funds will be available in sufficient amounts to provide community facilities when needed. The proposed assessments for FY 2009 are as follows:

<u>LAND USE</u>	<u>CURRENT ASSESSMENT</u>	<u>PROPOSED ASSESSMENT</u>
SINGLE FAMILY UNITS	\$3,965	\$4,243
MULTI-FAMILY UNITS	\$2,776	\$2,970
COMMERCIAL (per 1,000 sq ft)	\$693	\$741
INDUSTRIAL (per 1,000 sq ft)	\$350	\$375

The FBA will be collected at the building permit issuance stage of development and deposited into a special interest earning fund for Sabre Springs.

Council has previously directed that the same assessment rates are appropriate DIFs for all properties in Sabre Springs that have never been assessed or otherwise agreed to pay Facilities Benefit Assessments. Therefore, it is recommended that the above proposed Fiscal Year 2009 Assessments also be adopted as DIF for Sabre Springs (See Attachment 2).

FISCAL CONSIDERATIONS:

Adoption of this revised Public Facilities Financing Plan will continue to provide a funding source for the public facilities identified in Sabre Springs.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Land Use and Housing Committee voted unanimously to approve the FY 2009 Sabre Springs Public Facilities Financing Plan on February 20, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 16, 2008, the Sabre Springs Planning Group voted (8-0) to support the proposed Sabre Springs Public Facilities Financing Plan - Fiscal Year 2009.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All property owners with remaining new development are listed on the Sabre Springs Public Facilities Financing Plan - Fiscal Year 2009 Assessment Roll, beginning on page 73. These property owners will be mailed a notice of the public hearing and copy of the financing plan. The owners will have liens placed upon their property and will be required to pay Facilities Benefit Assessments (FBA) upon any building permit issuance when developing their property. Any redevelopment that increases the intensity of existing uses may be subject to an impact fee per Attachment 2.

Anderson/Gabriel/AA

NOTE: This plan is a financing measure and is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

Staff: Angela Abeyta – (619) 533-3674
Jana Garmo – Deputy City Attorney

FILE LOCATION: STRT-FB-09 (33)

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:05 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Hueso-yea.



[ITEM-336:](#) FY 2009 Budget Submission to City Council.

MAYOR SANDERS' RECOMMENDATION:

SUBMITTED

Submission of the FY 2009 Budget to City Council.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:06 p.m. – 2:16 p.m.)



[ITEM-337:](#) Budget Adjustment for Office of Homeland Security (OHS). (Citywide.)

STAFF'S RECOMMENDATION:

Hold the first public hearing of the ordinance:

(O-2008-130) HEARING HELD

An Ordinance amending Ordinance No. O-19652 (New Series) entitled “An Ordinance Adopting the Annual Budget for the Fiscal Year 2008 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year,” by authorizing the City Auditor and Comptroller to transfer and expend up to \$475,500 from the City’s General Fund Appropriated Reserve (Dept. 602) to the Office of Homeland Security Department (Dept. 150) for the purposes of funding the October 2007 Firestorm-related expenses;

Authorizing and directing the City Auditor and Comptroller to appropriate and to transfer up to \$475,500 from the City’s General Fund Appropriated Reserve, Dept. 602 to OHS, Dept. 150.

STAFF SUPPORTING INFORMATION:

The Office of Homeland Security requires a budget adjustment to cover additional costs incurred during and after the October 2007 Firestorms. These disaster related costs were not budgeted in the OHS 2008 Annual Appropriation. Additional costs incurred from the October 2007 Firestorms to date amount to \$475,500. If approved, the updated OHS Fiscal Year 2008 Annual Appropriation would be increased from \$1,781,242 to \$2,256,742. This is a one-time budget request for Fiscal Year 2008.

The \$475,500 costs related to the October 2007 Firestorms comprise operating costs for the City's Emergency Operations Center (EOC), the mass evacuation site at Qualcomm Stadium, the animal evacuation site at Fiesta Island, and the Local Assistance Center (LAC) in Rancho Bernardo. Fees incurred include the following:

Sanitation	\$ 54,948
Transportation	\$ 12,174
Catering	\$136,463
Office Supplies	\$ 5,291
Construction Materials	\$ 15,948
First-Aid Supplies	\$ 15,858
Communication	\$ 1,600
Site Rental/Security Fees	\$117,062
Clean-up Operations	\$116,156
Total	\$475,500

OHS requests that \$475,500 be transferred from the Appropriated Reserve (Dept. 602) into the OHS operating budget to cover the excess costs through the end of Fiscal Year 2008.

FISCAL CONSIDERATIONS:

The City of San Diego is eligible to be reimbursed for a portion of these disaster related costs. The EOC, Qualcomm and Fiesta Island are eligible for reimbursement under the Public Assistance Program. Upon completion of eligible projects under the Public Assistance Program, FEMA will reimburse 75% and the state will reimburse 18.75% of all eligible costs. The City of San Diego will be responsible for covering the remaining 6.25% and all ineligible costs. The LAC is only covered by the California Disaster Assistance Act. Under this act the state will reimburse 75% of eligible costs and the City is responsible for the balance.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Office of Homeland Security requires this budget adjustment to unfreeze its operating budget and continue overseeing recovery projects.

Olen

Staff: Donna Faller - (619) 533-6763
Lori Thacker - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

NOTE: Today's action is the first public hearing. See the docket of Monday, April 21, 2008, for the second public hearing and the introduction and adoption of the Ordinance.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:44 p.m. – 5:44 p.m.)



ITEM-S500: Retain Special Prosecutor in the Matter of the People of the State of California v. Thomas Story.

MAYOR SANDERS' RECOMMENDATION:

Take the following action: REFERRED TO THE ETHICS COMMISSION

Retain special Prosecutor in the matter of The People of the State of California v. Thomas Story Case No. M014519 for the purposes of determining whether or not the prosecution should move forward and to handle all matters related to this prosecution;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

SUPPORTING INFORMATION:

Pursuant to a hearing on April 11, 2008 before Judge Wellington the City of San Diego has been informed that trial in this matter has been set for April 30, 2008. The City Attorney is barred from any and all involvement in this matter. The Attorney General and District Attorney's Office have stated for jurisdictional and discretionary reasons they decline to prosecute. The Mayor requests that the City Council retain a special prosecutor to report to the Mayor and City Council exclusively.

FISCAL CONSIDERATIONS:

The estimated expense is up to \$250,000 and is anticipated to come from the City Attorney's operating budget, which is within the General Fund, Fund 100, Department 045.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: n/a

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: n/a

KEY STAKEHOLDERS AND PROJECTED IMPACTS: n/a

Goldstone

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:16 p.m. – 3:46 p.m.;
3:52 p.m. – 3:55 p.m.)

Motion by Madaffer to deny the recommendation. Second by Hueso. Failed.
Yea-3, 4, 7, 8. Nay-1, 2, 5, 6.

MOTION BY ATKINS TO REFER TO THE ETHICS COMMISSION FOR FURTHER EVALUATION. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-nay.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 6:45 p.m. in honor of the memory of:

Robert Howard as requested by Council Member Young and;
Walter Kudumu as requested by Council Member Young.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:40 p.m. – 6:45 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego