

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, JUNE 10, 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 10:03 a.m. Council President Peters recessed the meeting at 11:05 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:10 a.m. with Council Member Maienschein and Council President Pro Tem Madaffer not present. The meeting was recessed by Council President Peters at 11:16 a.m. to convene into closed session and thereafter recessed for the noon break to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:08 p.m. with Council Member Young and Council Member Hueso not present. Council President Peters recessed the meeting at 3:24 p.m. for the purpose of a break. Council President Peters reconvened the regular meeting at 3:30 p.m. with all Council Members present. Council President Peters recessed the meeting at 4:46 p.m. for the purpose of a break. Council President Peters reconvened the regular meeting at 4:52 p.m. with Council Member Madaffer and Council Member Hueso not present. Council President Peters recessed the meeting at 4:55 p.m. to convene the Housing Authority. Council President Pro Tem Madaffer reconvened the regular meeting at 6:37 p.m. with Council President Peters, Council Member Maienschein and Council Member Hueso not present. The meeting was adjourned by Council President Pro Tem Madaffer at 6:41 p.m.

**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-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: 10:31 a.m. – 10:34 a.m.)

PUBLIC COMMENT-2:

Ted Patrick commented on killings in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. - 10:38 a.m.)

PUBLIC COMMENT-3:

**Referred to City Attorney:** Barbara Mackenzie commented on medical marijuana.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:38 a.m.)

PUBLIC COMMENT-4:

**Referred to Mayor:** Ella Creshier commented on sewer and rental tax.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:44 a.m.)

PUBLIC COMMENT-5:

Thomas Glasser commented on home evaluations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. - 10:48 a.m.)

PUBLIC COMMENT-6:

Mignon Scherer commented on growth, water and budget issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. - 10:51 a.m.)

**PUBLIC COMMENT-7:**

Jarvis Ross commented on the Airport Authority.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. - 10:54 a.m.)

**PUBLIC COMMENT-8:**

Izean Rim Jr., commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. - 10:56 a.m.)

**PUBLIC COMMENT-9:**

Elinor Rector commented on the Mayor.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. - 10:59 a.m.)

**PUBLIC COMMENT-10:**

Ray Lutz commented on citizenoversight.org.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:00 a.m. – 11:02 a.m.)

**PUBLIC COMMENT-11:**

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. - 11:05 a.m.)

**COUNCIL COMMENT:**

None.

**INDEPENDENT BUDGET ANALYST COMMENT:**

None.

**CITY ATTORNEY COMMENT:**

None.

 [ITEM-30:](#) Approval of Council Minutes.

**TODAY'S ACTION IS:**

Approval of Council Minutes for the meetings of:

APPROVED

04/28/2008

04/29/2008

05/05/2008

05/06/2008

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:10 a.m.)

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

 [ITEM-31:](#) Century Club Day.

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1108) ADOPTED AS RESOLUTION R-303801

Proclaiming June 10, 2008, as "Century Club Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:12 a.m. – 10:18 a.m.)

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



ITEM-32: Peter G. Armstrong Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1027) ADOPTED AS RESOLUTION R-303831

Commending Peter Armstrong for the imprint he has left on the City of San Diego through his efforts in redevelopment and affordable housing;

Proclaiming June 6, 2008, to be “Peter G. Armstrong Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. – 2:16 p.m.)

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



[ITEM-33:](#) US Airways Day.

**COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1102) ADOPTED AS RESOLUTION R-303802

Proclaiming June 10, 2008, to be "US Airways Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:10 a.m.)

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-50: Linda Vista/Clairemont Mesa Open Space-Rezone; and Setting Aside and Dedicating City-Owned Land in the City of San Diego. (Linda Vista/Clairemont Mesa Community Plan Areas. District 6.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 5/20/2008, Item 335, Subitems A and B. (Council voted 8-0):

Subitem-A: (O-2008-143) ADOPTED AS ORDINANCE O-19757  
(New Series)

Authorizing of setting aside and dedicating City-owned land in the City of San Diego.

Subitem-B: (O-2008-145) ADOPTED AS ORDINANCE O-19758  
(New Series)

Changing 6.64 acres located on Map Z-178, Document No. 273438, within the Linda Vista and Clairemont Mesa Community Plan Areas, in the City of San Diego, California, from the Residential-Single Unit Zone (RS-1-7 Zone) into the Open Space - Park Zone (OP-2-1 Zone), as defined by San Diego Municipal Code Section 131.0302, and repealing Ordinance No. O-13457, adopted on February 15, 1932, of Ordinances of the City of San Diego insofar as the same conflicts herewith.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

CONSENT MOTION BY HUESO TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

- \* ITEM-51: Scripps Mercy Hospital Rezone Located at 4077 Fifth Avenue. (Uptown Community Plan Area. District 3.)

(Report to Planning Commission No. PC-08-040/MND No. 94392/MMRP/Amendment to the Progress Guide and General Plan/Uptown Community Plan No. 33363/Rezone No. 525271/Site Development Permit No. 531932/Conditional Use Permit Amendment No. 304755/Public Right-of-Way Summary Vacation No. 525320 and 525326/Public Right-of-Way Dedication Nos. 525322 and 525327/Easement Dedication No. 525329/Easement Vacation Nos. 525323, 525331, 525330, 525324 and 525332/Project No. 94392.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 5/20/2008, Item 336, Subitem A. (Council voted 8-0):

(O-2008-150)                      ADOPTED AS ORDINANCE O-19759 (New Series)

Changing 20.85 acres located at 4077 Fifth Avenue, within the Uptown Community Plan Area, in the City of San Diego, California, from the MR-800B and the RS-1-4 Zones into the CN-1A, the OC-1-1 Zones, as defined by San Diego Municipal Code Sections 1512.0301, 131.0403, 131.0203, 1512.0305; and repealing Resolution No. R-301263 adopted March 14, 2006, of the Resolutions of the City of San Diego insofar as the same conflict herewith.

FILE LOCATION:                      MEET

COUNCIL ACTION:                      (Time duration: 10:18 a.m. – 10:29 a.m.)

CONSENT MOTION BY HUESO TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

- \* ITEM-52: Second Amendment to Agreement with Malcolm Pirnie, Inc. and Third Amendment to Agreement with CH2M Hill, Inc. for Various Water Projects. (Navajo, Mission Trails Regional Park, Mid-City, and College Community Areas. Districts 3 and 7.)

(See Engineering and Capital Projects Department's Executive Summary Sheets #2B and 2C dated November 8, 2007.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2008-125)                   INTRODUCED, TO BE ADOPTED ON TUESDAY,  
JUNE 24, 2008

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

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

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

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

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

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

Authorizing FY08-Phase 7 in the amount of \$1,100,000 with Malcolm Pirnie, Inc., for Alvarado Water Treatment Plant-Upgrade and Expansion (Phase IV Ozone Improvements and Phase III Rehabilitation of Basins 1 & 2). The execution of these phases shall be performed by the Mayor, or his designee, contingent upon City Council approval of the Project in the Water Department's budget for the above fiscal years, and contingent upon the City Auditor and

Comptroller furnishing one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

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

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

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

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

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

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 11/14/2007, NR&C voted 3 to 0 to approve. (Councilmembers Faulconer, Maienschein, and Frye voted yea. Councilmember Hueso not present.)

**SUPPORTING INFORMATION:**

The City entered into an Agreement with MPI on April 15, 2002, to provide construction support services on the Earl Thomas Reservoir Replacement and design and construction support services on the AWTP Phase II. This Second Amendment is needed to extend the term of the Agreement through December 31, 2012, and update the design for the Phase III Rehabilitation of Basins 1 & 2 and provide construction support services for both Phase IV Ozone Improvements and Phase III Rehabilitation of Basins 1 & 2.

The City entered into an Agreement with CH2M Hill, Inc., on January 14, 2002, to provide construction management services for the Earl Thomas Reservoir Replacement and AWTP

Phase II. Construction is now proceeding on Phase IV Ozone Improvements, Phase III Rehabilitation of Basins 1 & 2 and SD17FCF/PS. This Third Amendment is needed to extend the term of the Agreement through December 31, 2013, and to provide construction management services to these projects.

Each of these various projects are complex and subject to Department of Public Health Compliance Orders. Both MPI and CH2MHill have the needed expertise in the areas of water treatment design development and treatment plant construction management, respectively.

**EQUAL OPPORTUNITY CONTRACTING**

Malcolm Pirnie, Inc.

Funding Agency: City of San Diego

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

Subconsultant Participation: \$3,574,851 (27.3%); \$1,553,686 Certified Firms (11.5%),  
\$2,021,165 OBE (15.8%)

Prevailing Wage: Prevailing wages apply.

Other: Work Force report submitted - Equal Opportunity Plan required.

Staff will monitor plan and adherence to Non Discrimination Ordinance.

CH2M Hill, Inc.

Funding Agency: City of San Diego

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

Subconsultant Participation: \$332,396 (17%); \$249,621 Certified Firms (13%), \$82,775 OBE (4%)

Prevailing Wage: Prevailing wages apply.

Other: Work Force report submitted - Equal Opportunity Plan required.

Staff will monitor plan and adherence to Non Discrimination Ordinance.

FISCAL CONSIDERATIONS:

Funding is available from the enterprise Fund 41500, Water, in the amount of \$7,831,883 from CIP-73-261.3, AWTP (Phase IV Ozone Improvements), \$3,785,529 from CIP-73-261.3, AWTP (Phase III Rehabilitation of Basins 1 & 2), and \$969,607 from CIP-73-314.0, SD17FCF/PS. The funding of \$7,831,883 for Phase IV Ozone Improvements was previously authorized by R-303093. After executing these amendments, the new agreement amounts with MPI and CH2M Hill, Inc., will be \$14,148,233 and \$15,484,922, respectively. No additional funding needs are anticipated for these Agreements.

The project costs of \$12,587,019 may be reimbursed approximately 80% by current or future debt financing. These Amendments will be phase-funded FY08-FY11.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

These items were approved at the November 14, 2007, Natural Resources & Culture Council Committee meeting by a vote of 3-0. Prior actions are the following:

- R-303093 dated 10/29/07 approved \$64,075,000 for construction and project related costs of AWTP (Phase IV Ozone Improvements)

MPI

- R-296348 dated 4/15/02 approved the original Agreement in the amount of \$7,664,537.
- O-19569 dated 1/09/07 approved Amendment No. 1 for \$1,300,000.

CH2M Hill Inc.

- R-295950 dated 1/14/02 approved the original Agreement in the amount of \$8,081,599.
- C-12875 dated 10/05/04 approved Amendment No. 1 for changes to the City's Owner Controlled Insurance Program with no additional funding.
- C-13984 dated 11/30/06 approved Supplementary Amendment extending the term to 1/13/07 with no additional funding.
- O-19570 dated 1/09/07 approved Amendment No. 2 extending the term to 11/30/09 with no additional funding.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community meetings have been conducted to inform members of the public, including the Friends of Lake Murray, Mission Trails Community Advisory Committee, City of La Mesa and local residents about the scope and schedule of the AWTP project. A CIP hotline is regularly maintained to answer questions and provide information to the public. Door hangers, fact sheets, newsletters, and updates on the City of San Diego Web site also add to the public outreach efforts. None of these efforts has focused on the consultants or the construction manager.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are City of San Diego Water Departments customers, MPI, and their sub-consultants, CH2M Hill, Inc. and their sub-consultants, Development Services Department, and California Department of Public Health.

Boekamp/Jarrell

Aud. Certs. 2800775 and 2800776.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

- \* ITEM-53: Inviting Bids for Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon (Bridge No. 57C-416) and Third Amendment to Agreement with T.Y. Lin International. (Uptown Community Area. District 2.)

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2008-156) INTRODUCED, TO BE ADOPTED ON  
TUESDAY, JUNE 24, 2008

Introduction of an Ordinance authorizing the Mayor, or designee, for and on behalf of the City to make an application to CALTRANS to secure funding in the amount of \$10,492,572 of which \$5,388,359 is from the Highway Bridge Program (HBP-Seismic) and \$4,406,094 is from the Highway Bridge Program (HBP-Paint), and \$698,119 is from Prop 1B Bond funds, Local Seismic Safety Retrofit Program (LSSRP), for the construction, construction engineering, and contingency of the Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon, CIP-52-554.0 (Project), on work order No. 112289;

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

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

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

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

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

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

Approving the plans and specifications for the construction of Seismic Retrofit and Painting of First Avenue Bridge Over Maple Canyon (Project);

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

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

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

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

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

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

**STAFF SUPPORTING INFORMATION:**

The First Avenue Bridge over Maple Canyon (Bridge No. 57C-416) was built in 1931 and is a steel truss arch bridge spanning Maple Canyon Open Space. It has been certified as a historic structure by the City of San Diego Historical Resources Board and the California Department of Parks and Recreation. The proposed project provides for the seismic retrofit, rehabilitation of the bridge deck, removal of existing lead paint, installation of historic lights, and repainting the entire bridge structure to its original color and utility relocation that conflicts with the retrofit design. When completed the project will satisfy the State of California requirements of the “no collapse” criteria during a seismic event.

The Seismic Retrofit and Painting of the First Avenue Bridge Over Maple Canyon is eligible for Federal and State grant funding through the Highway Bridge Program (HBP) and Local Seismic Safety Retrofit Program (LSSRP). This action will allow the Mayor, or his designee, to apply for, accept, and expend Highway Bridge Program Funds of up to \$10,492,572 for the purpose of construction.

On November 17, 2003, per Resolution R-298585, the City of San Diego Council authorized the Consultant Agreement with T.Y. Lin International to provide engineering services for the design of First Avenue Bridge over Maple Canyon Project. On February 3, 2006, City Council approved Resolution #R-301204, the First Amendment to the Agreement, to provide additional work that was not included in the original Contract and add additional HBP funds into the project. Changes in the scope of work were due to unforeseen changes in the original seismic retrofit design strategy, additional environmental analysis and processing requirements, design of a new bridge system, and utility relocation coordination. On July 10, 2007, City Council approved Resolution #R-302802, the Second Amendment to the Agreement with T.Y. Lin International which provided for additional professional services to address corroded members.

Because this bridge was a steel truss bridge, in 2006 Caltrans was required to conduct a Fracture Critical Member inspection in addition to the routine biannual inspection. As a result, the City of San Diego was notified of corroded members that needed to be replaced as a part of this project. The extra work included structural design calculations, member replacement design plan layouts, and contract specifications.

As part of the fracture critical member inspection in 2006, Caltrans concluded that there exists a high probability that other corroded members will be discovered during construction, since portions of the bridge were not accessible during the inspection. The Third Amendment to the contract would have T.Y. Lin provide engineering services during construction to determine whether to rehabilitate or replace any encountered corroded members.

In addition, the Third Amendment will also provide professional services for coating inspection throughout the progress of the painting up to and including final acceptance to ensure that the steel members have been properly protected per the contract specifications and manufacturers technical data sheets and professional services for coordination with the State of California and on site construction services for conformance with the approved Historic Property Survey Report.

**FISCAL CONSIDERATIONS:**

- These actions will authorize the acceptance, appropriation and expenditure of \$10,492,572 in grant funding for construction. The local matching funds of \$570,856 are available in the project.
- The acceptance of grant funding will provide the funds required for the execution of the Third Amendment to the Consultant Agreement in the amount of \$291,730.

**PREVIOUS COUNCIL COMMITTEE ACTION:**

- The Original Agreement was approved by Resolution #R-298585 on November 17, 2003.
- The First Amendment to Agreement was approved by Resolution #R-301204 on September 3, 2006.
- The Second Amendment to Agreement was approved by Resolution #R-302802 on July 10, 2007.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: Transnet, Caltrans Highway Bridge Program and State Transportation Improvement Program. EOC Goals for Construction Contract - Federal Highways/California Department of Transportation Race-Neutral Program applies. Project Specific Advisory Goal of 13%, DBE, using Race-Neutral measures. EOC Goals for Consultant Agreement - 5% DBE.

Subconsultant Participation to date: \$62,197.07 DBE (8.6%), \$200,979.23 OBE (27.63%)

Subconsultant Participation for this amendment: \$0 DBE and \$132,750 OBE (45.5%)

Other for Consultant Agreement: Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

Other for Construction Contract: This contract will be advertised for bids in the San Diego Daily Transcript, Voice and Viewpoint, La Prensa, City of San Diego's website, 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 of San Diego will notify trade associations and eligible firms via fax and/or e-mail.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Staff presented and coordinated the project with the Uptown Community Planning Board. The Board supported and approved the project.

KEY STAKEHOLDERS:

City of San Diego, CALTRANS, TY Lin International, City of San Diego Historical Board, California Department of Parks and Recreation

Boekamp/Jarrell

Aud. Cert. 2800782.

Staff: Marnell Gibson - (619) 533-5213  
Ryan Kohut - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

- \* ITEM-60: Fifth Amendments to Professional Services Agreements with Intera, Inc. and Opper & Varco, LLP Related to Contamination at Qualcomm Stadium; and Department Expense Reimbursement of Costs Incurred in Connection with Qualcomm Stadium Cleanup Matter. (Mission Valley Community Area. District 6.)

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

**STAFF'S RECOMMENDATION:**

Introduce the following ordinances in Subitems A and B; and adopt the resolution in Subitem C:

Subitem-A: (O-2008-153)                      INTRODUCED, TO BE ADOPTED ON  
TUESDAY, JUNE 24, 2008

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

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

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

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

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

Subitem-B: (O-2008-154)                      INTRODUCED, TO BE ADOPTED ON  
TUESDAY, JUNE 24, 2008

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

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

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

Subitem-C: (R-2008-1046)                      ADOPTED AS RESOLUTION R-303803

Authorizing and directing the City Auditor and Comptroller to disburse monies received from the Shell settlement, Mission Valley Terminal Settlement Fund No. 10705, to reimburse expenses incurred by the Water Department for staff, consultant, and outside counsel services, and attorney and staff expenses incurred by the Refuse Disposal Enterprise Fund of the Environmental Services Department in support of the City's efforts to remediate the contamination of soil and groundwater underlying the Qualcomm Stadium property.

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

**STAFF SUPPORTING INFORMATION:**

In 1992, an enforcement action was brought by the San Diego Regional Water Quality Control Board (RWQCB) against the party responsible for the release of petroleum products from the Mission Valley Terminal to the soil and groundwater beneath the Qualcomm Stadium site. The RWQCB ordered the discharger to clean-up the contamination by certain deadlines which are fast-approaching. That clean-up is still ongoing. The City also recently initiated litigation against the discharger. The City is the owner of the Qualcomm Stadium site.

The City Water Department has Pueblo Water Rights in the waters of the San Diego River, which include the groundwater basin at issue in the above-referenced RWQCB enforcement action. The City plans to utilize this basin beginning in 2010 to pursue the groundwater objectives of the Long-Range Water Resources Plan adopted by the City Council on December 9, 2002, which establishes priority elements of groundwater storage and desalination including the Mission Valley Groundwater Basin. In its efforts to advocate the City's interests in timely meeting clean-up goals, the City retained the services of an environmental consultant and an environmental attorney. Those agreements are nearing the end of their 5-year terms, and the funds for the environmental consultant are nearly exhausted. In addition, funds advanced by the Water Department and the Environmental Services Department for the City's efforts are in need of reimbursement. Thus, the following actions are requested:

1. Authorizing execution of a Fifth Amendment to The Agreement between the City and Intera, Inc., for additional environmental consulting services in connection with the cleanup of contamination to the Qualcomm Stadium site from the Mission Valley Terminal. The Fifth Amendment increases the agreement amount by \$200,000 to \$450,000 and extends the agreement by three years to a term of eight years.
2. Authorizing the expenditure of \$200,000 from Water Department FY 2008 Operating Budget, Water Fund 41500, Org. 8320, for environmental consulting services in connection with the clean-up of contamination at Qualcomm Stadium site from Mission Valley Terminal, provided that the City Auditor and Comptroller first furnishes a certificate that funds are, or will be, on deposit with the City Treasurer, and authorizing the City Auditor and Comptroller to return excess budgeted funds to the appropriate reserve.
3. Authorizing execution of a Fifth Amendment to the agreement between the City and Opper & Varco, LLP for continued environmental legal services and representation before the RWQCB in connection with contamination at Qualcomm Stadium from Mission Valley Terminal. The Fifth Amendment extends the agreement three years to a term of eight years with no additional funding requested at this time.

4. Authorizing and directing the City Auditor and Comptroller to disburse monies from the Shell settlement (Mission Valley Terminal Settlement Fund Number 10705) to reimburse expenses incurred by the Water Department for staff, consultant and outside counsel services, and attorney and staff expenses incurred by the Refuse Disposal Enterprise Fund in the Environmental Services Department (ESD) in support of the City's efforts to remediate the contamination at Qualcomm Stadium.

**EQUAL OPPORTUNITY CONTRACTING:**

Funding Agency: City of San Diego  
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)  
Subconsultant Participation: None

**FISCAL CONSIDERATIONS:**

The Fifth Amendment to the agreement with INTERA, Inc. adds \$200,000 for a total contract amount of \$450,000. This amendment will be funded from Water Department FY 2008 Operating Budget, Water Fund 41500, Org. 8320.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The Water Department and City Attorney have aggressively approached the Regional Water Quality Control Board in public sessions, met on several occasions with the staff and their consultants, and met with the discharger.

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

Water customers of the City, residents in the vicinity of Qualcomm Stadium, the City, and parties interested in the San Diego River.

Ruiz/Barrett

Aud. Cert. 2800813.

Staff: M. Steirer - (619) 533-4112  
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: SUBITEMS A AND B: NONE  
SUBITEM C: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

- \* ITEM-100: Fiscal Year 2009 and 2010 Phase Funding for Miramar Treatment Plant Upgrade and Expansion-Contract B. (Scripps Miramar Ranch Community Area. District 5.)

(See Engineering and Capital Project Departments 3/20/2008 Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-1071) ADOPTED AS RESOLUTION R-303804

Authorizing the expenditure of an additional amount not to exceed \$27,897,219 from Water Fund 41500, CIP-73-284.0, solely and exclusively to fund the Miramar Water Treatment Plant Upgrade and Expansion design, construction, construction management, and other Project related costs;

Authorizing a total expenditure not to exceed \$33,397,219, consisting of \$27,897,219 requested by this action plus \$5,500,000 previously authorized by City Council, for the last two phases of the Project in FY 2009 and FY 2010 as follows:

- FY 2009       \$31,550,000
- FY 2010       \$1,847,219

contingent upon approval of Project funding in the FY 2009 and FY 2010 Water Department budgets, and provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is covered under the Miramar Water Treatment Plant Upgrade and Expansion EIR, LDR No. 99-0704, that this activity is adequately addressed in the environmental documents for the Project and there is no change in circumstance, additional information, or Project changes to warrant additional environmental review, and that this activity is not a separate Project for purposes of review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(c).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 3/26/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

As a part of the Water Department Capital Improvements Program, the Miramar Water Treatment Plant (WTP) is scheduled for expansion from the current capacity of 140 million gallons per day (MGD) to 215 MGD to meet the water demand of its service area. In addition to increasing treatment capacity, the facility will upgrade the treatment processes. This will improve operations and maintenance at the facility, and will meet the new drinking water standards set by the U.S. Environmental Protection Agency and as mandated by the California Department of Health Services (DHS) Compliance Order. Failure to meet the DHS Compliance Order dates may result in fines levied against the City of San Diego.

This phase of the Miramar WTP project (Contract B) is covered under a Resource Protection Ordinance (RPO) Permit No. 99-0704 and Final Program EIR (LDR No. 99-0704), which was approved and certified by City Council on March 13, 2002.

Contract B represents the fourth of six components of the Miramar WTP Upgrade & Expansion project. It consists of demolition of the original filters, demolition of the existing Operation Building, demolition of the existing flocculation/sedimentation basins (3 & 4), construction of 4 new flocculation/sedimentation basins (5, 6, 7, & 8) and site piping, grading, electrical and mechanical work.

This project was previously authorized by Council and was adopted on May 21, 2007 (R-302605). The City Council approved the expenditure authorization of an amount of \$26,200,000 from Water Fund 41500, CIP-73-284.0, and \$2,250,000 from Water Fund 41500 CIP-73-331.0, Annual Allocation Water Pooled Contingency for the first two phases of the project in FY 2007 and FY 2008.

The City Council also asked the Water Department CIP staff to return to City Council in FY2008 for FY2009 and FY2010 phasing expenditure authorization. Furthermore, the construction contract was approved and awarded to Western Summit Contractors, Inc. by Mayor on October 1, 2007.

The requested action is to authorize Fiscal Year 2009 and 2010 phase funding in the amount of \$27,897,219, for the construction of Miramar WTP Upgrade and Expansion - Contract B Project. The construction began in fall of 2007, and is anticipated to be completed by winter of 2009.

City Forces will be utilized in this project for shutting down Miramar WTP. The work scope includes closing and opening large diameter valves, monitoring flow in the existing clearwell and day to day coordination with the project team. Their knowledge and experience with the existing water system will benefit the City. The cost for this work is estimated at \$300,000 for Fiscal Years 2009 and 2010.

**EQUAL OPPORTUNITY CONTRACTING:**

This contract was awarded under SCOPE with requirements that bidder provide documentation demonstrating a good faith effort to outreach to a broad-base of subcontractors, subcontracting at least 15% of the contract with advisory participation levels of 5% DBE, 1% DVBE and 9% OBE, and score at least 80 out of 100 Outreach Indicator Points. The Equal Opportunity Program staff evaluated Western Summit Contractor's documentation and reported that the contractor complied with the SCOPE requirements. The actual DBE was .4%, 0% DVBE and 29.87% OBE. Western Summit Contractor's documentation reflected 30.27% subcontracting, provided documentation sufficient to verify that the bidder made subcontracting opportunities available to a broad base of qualified subcontracts, and scored 100 out of 100 Outreach Indicator Points.

**FISCAL CONSIDERATIONS:**

The total cost for Miramar WTP Upgrade and Expansion - Contract B is \$59,411,885. Funding of \$31,514,666 for Fiscal Years 2007 and 2008 has been previously authorized. Funding for FY2009 and FY2010 is available in CIP-73-284.0, Miramar Water Treatment Plant Upgrade and Expansion. This project will be phased funded FY2009-FY2010. The project cost maybe reimbursed up to 8% by current or future debt financing. The Auditor's Certificate will be issued prior to the award of FY2009-FY2010. No future funding is anticipated.

**PREVIOUS COUNCIL COMMITTEE ACTION:**

This item was presented and approved by the Natural Resources & Culture Committee on September 13, 2006. Advertising for Construction was adopted on May 21, 2007 (R-302605).

Award to Western Summit Contractors was approved on October 1, 2007. First Amendment to the Agreement with CDM was adopted on February 9, 2004 (R-298874). Second Amendment to the Agreement with CDM was adopted on December 5, 2007 (O-19688). The Committee on Natural Resources and Culture on March 26, 2008, consent motion by Council President Peters, second by Councilmember Faulconer. Vote to approve 4-0.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The City of San Diego Water Department has partnered with the community since the start of the Miramar Water Treatment Plant (MWTP) Upgrade and Expansion Project. In 1999, the Water Department worked with community members to form the Miramar Water Treatment Plant Community Advisory Group (CAG), which is comprised of area residents living and working in the area to help mitigate project impacts. Regular CAG meetings are held to provide project updates and discuss various concerns. Smaller meetings and phone conferences are also held with other nearby residents to address any pertinent issues. In addition, a CIP Hotline is regularly maintained to answer any questions and provide any information to the public. Door hangers, fact sheets, MWTP Water Works newsletters, and updates on the City of San Diego Web site and community newsletters also add to outreach efforts on behalf of the project.

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

Citywide Water Customers, Consultants (CDM, Inc.), Construction Manager (MWH), Contractors (Western Summit Contractors), Scripps Ranch Community, Scripps Ranch Community Advisory Group, San Diego County Water Authority and California Department of Public Health.

Boekamp/Jarrell

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:18 a.m. – 10:29 a.m.)

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

- \* ITEM-101: Consultant Agreement with Simon Wong Engineering for the Rehabilitation of Voltaire Street Bridge Over Nimitz Boulevard Project. (Peninsula Community Area. District 2.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-920)            ADOPTED AS RESOLUTION R-303805

Authorizing the Mayor to execute, for and on behalf of the City, an agreement with Simon Wong Engineering to provide design services for CIP-52-519.0, Rehabilitation of Voltaire Street Bridge over Nimitz Boulevard Project (Project), under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the expenditure of an amount not to exceed \$174,000 from CIP-52-519.0, Rehabilitation of Voltaire Street Bridge over Nimitz Boulevard Project (Job Order 525233), for the purpose of executing the Agreement with Simon Wong Engineering, 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 funds, if any, to the appropriate reserves.

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

**STAFF SUPPORTING INFORMATION:**

The Voltaire Street Bridge is located between Wabaska Drive and Sea Colony Court, and crosses over Nimitz Boulevard. This bridge is eligible for Federal funding for rehabilitation due to spalling of the bridge deck, substandard barrier rails, and functionally obsolete geometry (there are more lanes on the bridge than on the approaches).

The project proposes to replace the barrier rails, add new street lights, re-stripe to reduce the number of through-lanes from four to two, add a two-way left-turn lane by removing the existing center median, modify the existing storm drain inlets, repair sidewalk and bridge spalls, and reseal the concrete bridge deck. The bridge is on Caltrans's Highway Bridge Program Eligible Bridge List; the project is 80% Federally funded with 20% local match.

In accordance with Council Policy 300-07 and Administrative Regulation 25.60, five firms were interviewed to provide bridge design services for this project. The panel members ranked Simon Wong Engineering as the most qualified team, and was subsequently selected by the appointing authority to perform the work.

**FISCAL CONSIDERATIONS:**

Funding is available for the Consultant Agreement with Simon Wong Engineering in the amount of \$174,000 from CIP-52-519.0, Rehabilitation of Voltaire Street Bridge over Nimitz Boulevard (Job Order 525233), Fund 38987, Highway Bridge Program, and Fund 10252, North Bay Redevelopment Agency.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

Resolution R-298636 was adopted on November 25, 2003, transferring \$170,000 in North Bay Redevelopment Agency funds into the project. Resolution R-301218 was adopted on February 9, 2006, to appropriate and expend \$135,864 in HBRR funds for the purpose of design.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Staff presented conceptual plan to Peninsula Community Planning Board, which the Board approved unanimously.

**KEY STAKEHOLDERS:**

Peninsula Community Planning Board, Simon Wong Engineering, Kimley-Horn & Associates, Inc., Caltrans, and FHWA.

**EQUAL OPPORTUNITY CONTRACTING:**

**Funding Agency:** Federal Highway Administration (Highway Bridge Program), and City of San Diego (North Bay Redevelopment Agency)

**Goals:** 15% Voluntary (MBEJWBEJDBE/DVBEIOBE)

**Subconsultant Participation:** \$78,158 (44.9%)

**Other:** Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

Boekamp/Jarrell

Aud. Cert. 2800708.

Staff: Marnell Gibson - (619) 533-5213  
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-102: Reduction of Construction and Demolition (C&D) Recycling Deposit for Wildfire Survivor Building Permits. (Rancho Bernardo Community Area. District 5.)

(See Environmental Services Department's undated Executive Summary Sheet; and 5/19/2008 PowerPoint.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-1052) ADOPTED AS RESOLUTION R-303806

Approving the revised deposit schedule for the City Construction & Demolition Debris Diversion Deposit Program;

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

**AD HOC FIRE COMMITTEE'S RECOMMENDATION:**

On 5/19/2008, Fire voted 3 to 0 to approve. (Councilmembers Peters, Maienschein, and Madaffer voted yea.)

**SUPPORTING INFORMATION:**

City Council passed Resolution R-298600 on October 25, 2007, to waive all fees associated with disposal and recycling of fire debris resulting from the 2007 Wildfires for City residents. This resolution did not address the mandatory Construction and Demolition (C&D) Debris Diversion Deposit Program that will be triggered on July 1, 2008. This ordinance will require a refundable deposit for C&D recycling on all permits subject to the C&D Ordinance that are submitted to DSD on/after July 1, 2008. This resolution will reduce the required deposits on any new construction resulting from the 2007 wildfires in Rancho Bernardo to one dollar. Residents/contractors would still be required to recycle their project-related debris as required under the C&D Ordinance.

**FISCAL CONSIDERATIONS:**

The Construction and Demolition (C&D) Debris Diversion Deposit is a vehicle to provide an incentive for permittees to recycle the C&D debris from construction and demolition projects. If the participating residents make a good faith effort and meet the C&D recycling goals as required all fees will be returned. With the reduction of the deposit to one dollar there will be no significant fiscal impact to any of the parties.

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

City Council Resolution R-298600 - Waiver of City Fees Associated with City of San Diego 2007 Wildfire Damage. May 19<sup>th</sup>, the Ad Hoc Committee on Fire Prevention and Recovery sent this item to Council with a unanimous approval vote.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** None.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Key stakeholders are the Rancho Bernardo Firestorm Survivors who are rebuilding their homes. Impacts are as described in the Executive Summary.

Gonaver/Heap

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-103: FY 2007 Public Safety Interoperable Communications Grant Program.  
(Citywide.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1032) ADOPTED AS RESOLUTION R-303807

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to apply for, accept, appropriate and expend grant funds from the FY 2007 Public Safety Interoperable Communications 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 actions to secure the grant funds and execute all agreements necessary to comply with the FY 2007 Public Safety Interoperable Communications Grant Program;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend grant funds from the FY 2007 Public Safety Interoperable Communications Grant Program if grant funding is secured;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing fund for the grant funds from the FY 2007 Public Safety Interoperable Communications Grant Program if grant funding is secured;

Declaring the City Auditor and Comptroller must certify funds for FY09 and FY10 budgets once the budgets are established.

**STAFF SUPPORTING INFORMATION:**

The Public Safety Interoperable Communications (PSIC) Grant Program is a one-time, federally-funded program designed to enhance and strengthen interoperable communications capabilities. The grant program requires solutions that help resolve interoperability gaps identified in statewide plans. The San Diego Urban Area Security Initiative (UASI) project addresses gaps identified in the State of California Interoperable Communications Plan (SCIP).

The San Diego Urban Area (SDUA) has been allocated a total of \$9,532,101. This award includes \$6,532,101 for the SDUA and \$3 million allocated for Imperial County. As a non-UASI area, Imperial County must be a sub-recipient of a designated UASI under this grant program. San Diego has been named to serve this roll.

Resolution R-303178 dated November 20, 2007, authorized the acceptance of the SDUA's allocation of \$6,532,101, but did not include the \$3 million pass through award for Imperial County. This request is to authorize the acceptance, appropriation and expenditure of these additional funds.

With its awarded funds, the SDUA proposes to install common system standards-based equipment to increase and improve interoperable voice and data communications capabilities between and among federal, state, tribal, county and local first responder agencies in the region that currently operate on disparate systems and frequency bands. This project is the first step in creating a networked "system of systems" in Southern California, and increases interoperability between levels of government operating on a number of communications infrastructures. The regional investment supports the goals and objectives of the San Diego Tactical Interoperable Communications Plan (TICP), the SCIP and the SDUA Security Strategy. This equipment is a critical component of the phased long-range regional plan to migrate both the City and County from exiting legacy systems to a standards-based digital platform. Through the implementation of this standard, the SDUA will achieve seamless interoperable voice and data communications.

Imperial County's interoperable communications project will provide additional infrastructure and microwave along the IS corridor from El Centro to Yuma, Arizona. Since this non-UASI county is covered under the SDUA TICP and the regional 3C's project, they have requested to partner with the SDUA as a sub-grantee, as required by the grant.

**FISCAL CONSIDERATIONS:**

This regional grant requires matching funding equal to 20% of the total project cost, excluding training activities. The SDUA matching funds for its share of the award were approved by Council on November 20, 2007, as Docket Item #108. For the Imperial County sub-grantee match, Imperial County will provide \$654,000 as an in-kind match for services in support of their project and the RCS Board of Directors will provide \$100,000 in cash or in-kind services. A confirming MOU will be issued to document this agreement prior to the allocation of any funds to Imperial County.

This grant program allows grantees to draw down funds up to 30 days prior to expenditure. Recipients are strongly encouraged to draw down funds as close to expenditure as possible to avoid accruing interest. Funds received by grantees must be placed in an interest-bearing account per federal guidelines.

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

Council Resolution R-303178 dated November 20, 2007.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Not Applicable.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

This regional interoperable communications project will support all public safety agencies within the San Diego Urban Area and Imperial County, the State of California, and Yuma, Arizona.

Faller/Olen

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:18 a.m. – 10:29 a.m.)

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

- \* ITEM-104: Ocean View Hills School Joint Use Area Construction Reimbursement. (Otay Mesa Community Area. District 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1094)            ADOPTED AS RESOLUTION R-303808

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$203,816 from CIP-29-541.0 Pacific Breezes (Ocean View Hills) Community Park, Fund 79014, Otay Mesa Facilities Benefit Assessment, for reimbursement of funds to the San Ysidro School District for improvements to the joint use area of the Ocean View Hills School.

Declaring that this activity is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3).

**STAFF SUPPORTING INFORMATION:**

When the Ocean View Hills (California Terraces) Subdivision was approved by the City of San Diego, the City's General Plan required that a population based Community Park to be 20 useable acres in size, of which five acres can be provided as a joint use area within an adjacent school site. Pacific Breezes Community Park (formerly known as Ocean View Hills) is adjacent to the Ocean View Hills School. In May 2005, the City of San Diego and the San Ysidro School District enter into a Joint Use Agreement to share five acres of school property, and these five acres contributes to the total 20 acres required for the community park.

The Joint Use Agreement includes language that states in part "The DISTRICT has budgeted \$400,000 for the labor and materials associated with constructing the top soil for the joint use fields, to CITY standards. Should labor and material costs for the top soil installation exceed \$400,000 the CITY shall reimburse the DISTRICT for the labor and materials above and beyond \$400,000..." The price of the topsoil paid for by the San Ysidro School District was \$603,816, and the District has invoiced the City for \$203,816. This action authorizes the City Auditor and Comptroller to reimburse the District the \$203,816.

**EQUAL OPPORTUNITY CONTRACTING:**

This action authorizes the City to reimburse the San Ysidro School District, a sovereign entity doing work on School District land, for an increase in materials cost.

The School District followed its own policies and procedures, similar to those of the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517), in building the school and joint use area.

**FISCAL CONSIDERATIONS:**

The funds are available in the Pacific Breezes (Ocean View Hills) Community Park project, CIP-29-451.0, for the design and construction of the community park.

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

The City Council approved the Joint Use Agreement with the San Ysidro School District for the joint use of 5 acres of turf-ed fields, and the Ordinance (OO-19394) was filed with the City Clerk on July 18, 2005.

The Park and Recreation Board approved the General Development Plan for the Pacific Breezes Community Park, including the joint use area, on November 30, 2006.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The General Development Plan for the Community Park, including the joint use area, was reviewed and approved by the Ocean View Hills Recreation Council, the Southern Area Committee, the Design Review Committee, and the Park and Recreation Board per Council Policy 600-33, COMMUNITY NOTIFICATION AND INPUT FOR CITYWIDE PARK DEVELOPMENT PROJECTS.

**STAKEHOLDERS AND PROJECTED IMPACTS:**

San Ysidro School District  
San Ysidro School Board  
Ocean View Hills School  
Ocean View Hills Recreation Council  
Otay Mesa Community

Oskoui/Jarrell

Aud. Cert. 2800797.

Staff: Samir Mahmalji - (619) 533-5301  
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-105: Annual Review of the North City West (Carmel Valley) School Facilities Master Plan, Fiscal Year 2006-2007. (Carmel Valley Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1056) ADOPTED AS RESOLUTION R-303809

Accepting the Fiscal Year 2006-2007 North City West (Carmel Valley) School Facilities Master Plan;

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

**STAFF SUPPORTING INFORMATION:**

The North City West School Facilities Master Plan was adopted by City Council Resolution R-255381 on November 17, 1981. The Joint Powers Agency titled "North City West School

Facilities Financing Authority” was adopted by the City Council on July 5, 1983, by Resolution R-2588833. The Mello-Roos Community Financing District No. 1 was formed on August 8, 1988, to supplement the financing of school facilities in Carmel Valley (formerly North City West). The Mello-Roos District covers 96% of the then remaining undeveloped residentially zoned land in Carmel Valley. The remaining 4% continues to be subject to the direct deposit fee established by the original Master Plan and updated periodically with City Council approval. The direct deposit fee schedule was last revised on May 7, 2002, and will remain in effect through Fiscal Year 2010.

The Master Plan indicated that an annual review by the City Council shall be performed in consultation with the Joint Powers Agency (JPA). The purpose of the review is to “evaluate the needed school facilities, and to reevaluate the costs and deposits for the program”. The Joint Powers Agency has performed its annual review and summarized its findings in the attached letter dated April 18, 2008.

The member districts of the Joint Powers Agency have been evaluating school facilities needs in view of class size reductions and increased enrollments. Consequently, it has been determined that additional facilities will be needed beyond those provided for in the Master Plan.

These requirements are outlined in the report and include two additional elementary schools. Because these additional facilities are financed entirely through the JPA, there is no impact on City funding sources.

FISCAL CONSIDERATION: None to the City.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Previous City Councils have accepted the annual reports as submitted.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The City is a member of the Joint Powers Agency along with the three school districts and has the responsibility to review compliance with the North City West School Facilities Master Plan.

Gabriel/Anderson

Staff: Megan Sheffield - (619) 533-3672  
Jana L. Garmo - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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



\* ITEM-106: East Elliot Multiple Species Conservation Program Acquisition.  
(East Elliot Community Area. District 7.)

(See Report to the City Council No. 08-085.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1053) ADOPTED AS RESOLUTION R-303810

Authorizing the Mayor, or his designee, to accept a grant deed, for a 14.46 acre parcel identified as being a portion of Lot 9 of the re-subdivision of a part of Fanita Rancho. Said 14.46 acres is to be included within the boundaries of the East Elliott Multiple Species Conservation Program;

Authorizing the City Auditor and Comptroller to accept \$48,000 from the Department of Veterans Affairs into Public Private Partnership Fund No. 10365 for the continual management of properties within the East Elliott Multiple Species Conservation Program;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$48,000 from Public Private Partnership Fund No. 10365 for the purpose of performing maintenance of the four acres as part of the East Elliott Multiple Species Conservation Program.

**STAFF SUPPORTING INFORMATION:**

The 16.46 acre site is an offsite mitigation requirement for the Fort Rosecrans National Cemetery Annex at MCAS Miramar. The Department of Veteran Affairs has chosen to deed the property to

the City to become a part of the East Elliott MSCP. The City has an on going acquisition program within the East Elliott area, where they have acquired over 500 acres to date. This additional 16.46 acres would be added to that total amount.

**FISCAL CONSIDERATIONS:**

Receipt of an endowment of \$48,000 for management of properties within the East Elliott Multiple Species Conservation Program.

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

By previous Resolutions, R-297751 dated 3/24/03, R-398808 dated 1/26/04, R-302323 dated 2/14/07, Council has approved a continuous acquisition program within the East Elliott area.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Park & Recreation expansion of its East Elliott ownership and the Department of Veterans Affairs.

Barwick/Anderson

Staff: David Sandoval - (619) 236-5548  
Todd Bradley - Deputy City Attorney

**FILE LOCATION:** F-10281

**COUNCIL ACTION:** (Time duration: 10:18 a.m. – 10:29 a.m.)

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

- \* ITEM-107: First Annual Youth Achievement Festival. (Barrio Logan Community Area. Districts 4 and 8.)

(See memorandum from Councilmembers Young and Hueso dated 3/3/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1055)            ADOPTED AS RESOLUTION R-303811

Authorizing the City Auditor and Comptroller, upon receipt of a fully executed grant agreement, to accept, appropriate, and expend a grant from the Port of San Diego up to \$30,000 for the Youth Achievement Festival from the Business Operations and Administration Department 210;

Authorizing the Mayor, or his designee, to submit all documents, negotiate and execute all agreements necessary, including any amendments, to comply with the grant requirements, and to carry out and administer all obligations, responsibilities and duties under the grant;

Authorizing the City Auditor and Comptroller to establish a fund for the purpose of handling the accounting to facilitate the process of tracking revenue and expenditures for this program;

Declaring that the above activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3) because the purchase is a continuing administrative or maintenance activity, and therefore not a project pursuant to State Guidelines Section 15378(b)(2).

**STAFF SUPPORTING INFORMATION:**

As a Port member City, the City of San Diego is eligible to receive annual Financial Assistance Program funding to conduct a signature event or set of events.

The First Annual Youth Achievement Festival is an event that will recognize and celebrate the achievements of elementary school children first through sixth grades. The Youth Achievement Festival will recognize those students who have achieved honor roll status, perfect attendance, and have shown the most improvement in education.

The Administration Department prepared and submitted the grant application to the Port District on behalf of Council Districts 4 and 8. The grant application was approved by the Port of San Diego's Financial Assistance Advisory Committee on March 17, 2008.

FISCAL CONSIDERATIONS:

The Port of San Diego's Financial Assistance Program will provide \$30,000 in grant funding for the Youth Achievement Festival.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Council Districts Four (4) and Eight (8) are inviting 19 elementary schools to attend the Youth Achievement Festival.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Fischle-Faulk/Goldstone

Staff: Debra Fischle-Faulk - (619) 533-6387  
Catherine M. Bradley – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

- \* ITEM-108: Water Easement Vacations in Parcels 1 and 2 of Parcel Map No. 20393.  
(Southeastern San Diego Community Area. District 4.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1067)            ADOPTED AS RESOLUTION R-303812

Declaring that the public service water easement located within Parcels 1 and 2 of Parcel Map 20393, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20817-B, marked as Exhibit "B," is ordered summarily abandoned, to unencumber this property under the procedure for the summary abandonment or vacation of public service easements, California Streets and Highways Code Section 8330 et seq. (and specifically Sections 8333 and 8335) and San Diego Municipal Code Section 125.1010(c);

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;

Finding that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

**STAFF SUPPORTING INFORMATION:**

This water easement vacation is located in the Southeastern San Diego, Southeastern Community Plan area, southwesterly of 40th Street and Imperial Avenue. This project consists of vacating a portion of a water easement required for site development that was granted to the City on Map No. 13977, and an easement granted by deed recorded June 6, 2006 as File No. 2006-03 87743. The existing facilities located within this easement have been superseded with a new water main as shown on Engineering Drawing No. 34444-D in an easement granted on Parcel Map 20393. 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):**

PDP Imperial Partners

Broughton/Anderson

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

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

**FILE LOCATION:** F-10282

**COUNCIL ACTION:** (Time duration: 10:18 a.m. – 10:29 a.m.)

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

- \* ITEM-109: Ratification of the 2008 Barrio Logan Project Area Committee (PAC) Election.  
(Barrio Logan Community Area. District 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1096)            ADOPTED AS RESOLUTION R-303813

Approving as newly elected members to the PAC the persons elected as members of the Project Area Committee for the Barrio Logan Redevelopment Project, as noted by the City Clerk's verification of the election results of May 22, 2008;

Declaring that the Council concurs that the election results of May 21, 2008 are valid and binding in accordance with the procedures adopted by Resolution No. R-296209.

**STAFF SUPPORTING INFORMATION:**

The Formation Procedures for the Barrio Logan Redevelopment PAC is the primary document that provides a framework to administer the PAC's annual elections. On December 8, 2003, the City Council approved with Resolution No. R-298704, the amendments to the Formation Procedures for the Barrio Logan Redevelopment Project Area Committee (Procedures). The amended Procedures required that the City Council direct Redevelopment Agency staff to notice and conduct the annual elections. With the authorization of City Council, R-303614, adopted April 22, 2008, Redevelopment Agency Staff noticed and conducted the May 21, 2008 Barrio Logan PAC elections. Seven (7) out of the thirteen (13) seats of the Barrio Logan PAC were vacant and available to be filled at the election. The Council has previously ratified the annual PAC election results (1990 through 2006) in accordance with the Barrio Logan PAC Formation Procedures.

The PAC annual election was held on May 21, 2008, to fill seven (7) vacancies on the PAC. The vacant categories included: Two (2) - Business Owners, Two (2) – Residential Tenants, Two (2) - Residential Owner-Occupant, and One (1) – Community Organization.

The results of the May 21, 2008 PAC Election are listed in Exhibit A.

FISCAL CONSIDERATIONS:

None with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

With the authorization of City Council, R-303614, adopted April 22, 2008, Redevelopment Agency staff noticed and conducted the May 21, 2008 Barrio Logan PAC elections.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Election Notices for the May 21, 2008 PAC Election were posted in four places within the Project Area. The San Diego Community College District Continuing Education Campus (Cesar Chavez Campus in Barrio Logan), Logan Heights Family Health Center, Perkins Elementary School and Barrio Station. In addition, the Election Notice was mailed to all residents and property owners in the Project area.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Barrio Logan Community

Weinrick/Anderson

Staff: Sam Johnson - (619) 236-6265  
Alex W. Sachs - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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



ITEM-110: Western Pacific Beach Maintenance Assessment District. Preliminarily approving the Engineer's Report submitted in connection with the proposed formation of the Western Pacific Beach Maintenance Assessment District; Resolution of Intention to form the Western Pacific Beach Maintenance Assessment District and to levy and collect Fiscal Year 2009 annual assessments on the Western Pacific Beach Maintenance Assessment District; and initiating proceedings for the formation of the Western Pacific Beach Maintenance Assessment District. (Pacific Beach Community Area. District 2.)

(Continued from the meeting of May 27, 2008, Item 109, at the request of Councilmember Faulconer, for further review.)

**NOTE:** Hearing open. No testimony taken.

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2008-1036) RETURNED TO MAYOR

Resolution of the Council of the City of San Diego preliminarily approving the Engineer's Report submitted in connection with the proposed formation of the Western Pacific Beach Maintenance Assessment District.

Subitem-B: (R-2008-1037) RETURNED TO MAYOR

Resolution of the Council of the City of San Diego of Intention to form the Western Pacific Beach Maintenance Assessment District and to levy and collect Fiscal Year 2009 annual assessments on the Western Pacific Beach Maintenance Assessment District.

Subitem-C: (R-2008-1035) RETURNED TO MAYOR

Resolution of the Council of the City of San Diego initiating proceedings for the formation of the Western Pacific Beach Maintenance Assessment District.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

The City Council is being asked to authorize the following actions by resolution:

1. Propose the formation of the Western Pacific Beach Maintenance Assessment District; and Preliminarily approving the Engineer Report.
2. Authorize the intention to levy and collect assessments for Fiscal Year 2009, establish the maximum authorized assessments, and set maximum assessment indexed annually to the San Diego Regional Consumer Price Index-Urban (CPI-U) not to exceed 5%.
3. Authorize the mailing of ballots to all property owners subject to assessment.
4. Establish the time and place for a public hearing to count ballots; and

**Upon affirmative findings at the public hearing on July 29, 2008:**

5. Authorize the consideration of protests, ordering the formation of the District, approve the Assessment Engineer's Report, confirm assessments, and order the improvements, maintenance, and/or services.
6. Approving the annual budget for the Western Pacific Beach Maintenance Assessment District in Fiscal Year 2009.
7. Authorize the City Auditor and Comptroller to establish an interest-bearing fund for the District.
8. If a weighted majority of returned ballots opened following the public hearing select the Pacific Beach Community Development Corporation, a non-profit Section 501(c)(3) organization, to administer the contracts for goods and services, authorize the Mayor or his designee to negotiate a contract with the Pacific Beach Community Development Corporation pursuant to Municipal Code § 65.0212-65.0214.

**STAFF RECOMMENDATION:**

Approve the requested actions listed above.

**EXECUTIVE SUMMARY:**

Efforts to form a Maintenance Assessment District (MAD) in the Pacific Beach community began in 2005. A variety of business owners on Mission Blvd. were seeking solutions to persistent problems on the beach including crumbling infrastructure, trash, homeless issues, and crime. In response, the Pacific Beach Community Development Corporation (Corporation) formed a Business Vision Committee whose task was to begin implementation of programs that would have a window of impact over a long term period between ten and fifteen years. This committee held a variety of informational meetings and developed several long term plans. These included the development of a Western Pacific Beach MAD, an Eastern Pacific Beach MAD, and a comprehensive parking strategy.

As many of the committee meetings were attended by hoteliers, who had voiced their concerns clearly, a priority was given to the development of the Western Pacific Beach MAD.

A series of surveys were completed and distributed in the fall of 2005 and early 2006. The surveys sought to indicate who might be interested in the idea of a MAD, what services might be provided, how much owners might be interested in contributing, and finally who would support a MAD. The surveys results were positive in a variety of ways. An overwhelming majority of property owners that submitted responses to the survey indicated support for the idea of paying for cleaning and security services. Property owners and residents indicated to the Corporation that they supported forming a MAD to fund services to make Pacific Beach more appealing to tourists and locals and to make it safer. There was an even mix of those who sought cleaning services and security services. A broad group supported the idea of a capital maintenance program that would provide for repair of infrastructure that was commonly neglected. The Corporation's outreach efforts included: 1) two mailed surveys to property owners and one hand delivered survey to business owners, 2) a public forum for larger stakeholders within the district held in January 2008 followed by a presentation to the Pacific Beach Planning Committee on 01/23/2008, 3) a mailer to all property owners and business owners in the April of 2008, 4) personal visits and telephone calls with property owners throughout fall of 2007 and spring 2008; and 4) a community forum is planned for June 2008. Additional public outreach was made by Corporation's Board and staff including regular updates before the Pacific Beach Town Council. Information was regularly included in the Pacific Beach Business newsletter PB Business Wave which was distributed to 1300 businesses. Additional community meetings and informational mailings will be made by the Pacific Beach CDC over the coming months to contact each and every property owner prior to and during the public balloting period."

City staff has retained SCI Consulting Group to prepare an Engineer's Report for the requested District. This report summarizes the proposed district, describes requested services / associated costs, provides an assessment diagram and apportions property owner assessments based on the level of benefit received. District proponents had the opportunity to review and comment on the Engineer's Report. The City Council is being asked to authorize the eight (8) requested actions cited above, with authorizations for actions 5 through 8 contingent upon affirmative findings at the public hearing on July 29, 2008. If the City Council approves the requested actions, ballots describing the proposed district and the associated assessments will be mailed to all property owners of record within the proposed district boundaries. Property owners can mail or deliver the ballots to the City Clerk. Interested parties may comment at the public hearing regarding the proposed District. Ballots will be counted at the conclusion of the hearing. If a majority of property owners support formation of the District in accordance with State law, the City Council has the discretion to establish the District and levy assessments beginning in Fiscal Year 2009 as described in the Assessment Engineer's Report.

FISCAL CONSIDERATIONS:

The annual assessment for City owned property will be \$24,636. Approximately \$474,426.26 will be assessed and collected in the Western Pacific Beach Maintenance Assessment District in FY 2009 ranging from \$3.63 to \$20,182 per parcel. The proposed assessments will fund an increased level of enhanced services within the District boundaries. If the District is approved by benefiting property owners, assessments will be levied and collected to fund the annual budget.

	<u>FY 08-09</u>	<u>Maximum Authorized</u>
<b>REVENUES</b>		
Assessments	\$474,426.26	\$474,426.26
Interest	\$0	\$0
<b>TOTAL REVENUES</b>	<b>\$474,426.26</b>	<b>\$474,426.26</b>
<b>ACTIVITIES AND SERVICES EXPENSES</b>		
General Operations	\$47,312.58	\$47,312.58
Protection	\$136,340.00	\$136,340.00
Maintenance	\$151,104.00	\$151,104.00
Special Projects	\$60,000.00	\$60,000.00
Incidentals		
City Administration	\$18,977.05	\$18,977.05
District Management	\$47,442.63	\$47,442.63
One Time Costs		
Balloting and Formation	\$13,250.00	\$13,250.00
<b>TOTAL EXPENSES</b>	<b>\$474,426.26</b>	<b>\$474,426.26</b>
<b>BALANCE</b>	<b>\$0</b>	<b>\$0</b>

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The outreach efforts include: 1) two mailed surveys to property owners and one hand delivered survey to business owners, 2) a public forum for larger stakeholders within the district held in January 2008 followed by a presentation to the Pacific Beach Planning Committee on 02/27/2008, 3) a mailer to all property owners and business owners in the April of 2008, 4) personal visits and telephone calls with property owners throughout fall of 2007 and spring 2008; and 5) a community forum is planned for June 2008.

Additional public outreach was made by Corporation's Board and staff including regular updates before the Pacific Beach Town Council. Information was regularly included in the Pacific Beach Business newsletter PB Business Wave which was distributed to 1300 businesses. Additional community meetings and informational mailings will be made by the Pacific Beach CDC over the coming months to contact each property owner prior to and during the public balloting period."

Upon preliminary approval of the Engineer's report by the City Council, notices / ballots will be prepared and mailed to all property owners of the District who will then ultimately vote whether or not they support the formation of the District. Property owners will also vote whether the Pacific Beach Community Development Corporation, a non-profit, Section 501(c)(3) organization, or the City should administer the contracts for goods and services for the District. If this action is approved, a public hearing will be scheduled where public testimony will be heard by the City Council.

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

Key stakeholders include the Pacific Beach business community, property owners and residents within the contemplated district. The Pacific Beach Community Development Corporation will manage the District if approved by property owner ballot.

**NOTE:** This activity is not a project and therefore not subject to CEQA pursuant to the State CEQA Guidelines Section 15060(c)(3).

Anderson/Kessler/LO

Staff: Luis Ojeda – (619) 236-6475  
Kimberly K. Harris – Deputy City Attorney

**FILE LOCATION:** M-516 (34)

**COUNCIL ACTION:** (Time duration: 10:29 a.m. – 10:31 a.m.)

**MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR'S OFFICE AT THE REQUEST OF COUNCIL MEMBER FAULCONER.** Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-111: Appointment to the Commission on Gang Prevention and Intervention.

(See memorandum from Mayor Sanders dated 5/5/2008, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1068) ADOPTED AS RESOLUTION R-303814

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the City of San Diego Commission on Gang Prevention and Intervention, for a term ending as indicated:

<b><u>NAME</u></b>	<b><u>CATEGORY</u></b>	<b><u>TERM ENDING</u></b>
Jose Cervantes (Linda Vista, District 6) (Replacing Rosemary Ortega, who has resigned)	Council District 6 Representative	July 1, 2009

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-112: Appointments to the Human Relations Commission.

(See memorandum from Mayor Sanders dated 5/13/2008, with resumes attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1117)            ADOPTED AS RESOLUTION R-303815

Council confirmation of the following appointments by the Mayor of the City of San Diego, to serve as members of the Human Relations Commission, for the terms ending as indicated:

<b><u>NAME</u></b>	<b><u>TERM ENDING</u></b>
Mary Alcock (Point Loma, District 2) (Replacing Jaime Minotti, who has resigned)	July 22, 2010
Shonee Henry (Mira Mesa, District 5) (Replacing Michael Perez, who has resigned)	July 22, 2009
Nghiep Le (Paradise Hills, District 4) (Replacing Kendra Jeffcoat, who has resigned)	July 22, 2010

**FILE LOCATION:**            MEET

**COUNCIL ACTION:**            (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-113: Reappointments to the La Jolla Shores Planned District Advisory Board.

(See memorandum from Mayor Sanders dated 4/30/2008.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1098)            ADOPTED AS RESOLUTION R-303816

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the La Jolla Shores Planned District Advisory Board, for terms ending as indicated:

<b><u>NAME</u></b>	<b><u>TERM ENDING</u></b>
Dan Goese (La Jolla, District 1) (Reappointment)	April 1, 2010
Suzanne Weissman (La Jolla, District 1) (Reappointment)	April 1, 2010

**FILE LOCATION:**            MEET

**COUNCIL ACTION:**            (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-114: Reappointments to the Mission Bay Park Committee.

(See memorandum from Mayor Sanders dated 4/30/2008.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1074) ADOPTED AS RESOLUTION R-303817

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the Mission Bay Park Committee, for terms ending as indicated:

<b><u>NAME</u></b>	<b><u>CATEGORY</u></b>	<b><u>TERM ENDING</u></b>
Bill Bushe (Ocean Beach, District 2) (Reappointment)	Ocean Beach Planning Board	March 1, 2010
Jim Greene (Pacific Beach, District 2) (Reappointment)	Mission Bay Hotel Lessee Representative	March 1, 2010
Mort McCarthy (County of San Diego/La Mesa) (Reappointment)	Non-Hotel Lessee	March 1, 2010
Richard Miller (North Park, District 3) (Reappointment)	Environmental Organization Sierra Club	March 1, 2010
Billy Paul (Clairemont, District 6) (Reappointment)	Clairemont Mesa Planning Group	March 1, 2010
Donald Peterson (Pacific Beach, District 2) (Reappointment)	Stakeholder Representative OMBAC	March 1, 2010

Jeton Prince  
(Pacific Beach, District 2)  
(Reappointment)

Pacific Beach  
Community Planning  
Committee

March 1, 2010

Stating that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Mort McCarthy is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Commission, therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-115: Eve Selis Day.

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1103) ADOPTED AS RESOLUTION R-303818

Commending Eve Selis for her dedication and commitment to her profession and the San Diego community at large;

Proclaiming May 31, 2008, to be "Eve Selis Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-116: Greater San Diego Business Association Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1079)            ADOPTED AS RESOLUTION R-303819

Congratulating the Greater San Diego Business Association (GSDBA) for its success over the past 30 years;

Proclaiming June 10, 2008, to be "Greater San Diego Business Association Day" in the City of San Diego.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-117: Senior Women's Basketball Association Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1081)            ADOPTED AS RESOLUTION R-303820

Congratulating the Senior Women's Basketball Association (SWBA) for its success over the past 10 years;

Proclaiming June 22, 2008, to be "Senior Women's Basketball Association Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-118: Flicks Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1066) ADOPTED AS RESOLUTION R- 303821

Congratulating Flicks for its success over the past 25 years;

Proclaiming May 30, 2008, to be "Flicks Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-119: Live and Let Live Alano Club Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1064)            ADOPTED AS RESOLUTION R-303822

Recognizing the 25<sup>th</sup> anniversary of the Live and Let Live Alano Club and commending it for its outstanding work and support on behalf of San Diego's LGBT recovery community;

Proclaiming May 31, 2008, to be "Live and Let Live Alano Club Day" in the City of San Diego.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-120: Philippine Independence Week.

**COUNCILMEMBER YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1088) ADOPTED AS RESOLUTION R-303823

Designating June 9 to June 15, 2008, to be "Philippine Independence Week."

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-121: Friends of *We Chinese in America* Day.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1087) ADOPTED AS RESOLUTION R-303824

Proclaiming May 16, 2008, as "Friends of *We Chinese in America* Day" in the City of San Diego in recognition of the many community services they have provided to the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-122: Excusing Council President Pro Tem Jim Madaffer from Attending the Budget and Finance Committee Meeting of June 4, 2008.

**COUNCIL PRESIDENT PRO TEM MADAFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1101) ADOPTED AS RESOLUTION R-303825

Excusing Council President Pro Tem Jim Madaffer from attending the regularly scheduled Budget and Finance Committee meeting on June 4, 2008, because he will be out of town on official City business.

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-123: Declaring a Continued State of Emergency Regarding the Wildfires.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-886)                      ADOPTED AS RESOLUTION R-303826

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: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-124: 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-2008-816)                      ADOPTED AS RESOLUTION R-303827

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: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-125: 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-2008-755) ADOPTED AS RESOLUTION R-303828

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: 10:18 a.m. – 10:29 a.m.)

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

\* ITEM-126: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-864)                    ADOPTED AS RESOLUTION R-303829

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: 10:18 a.m. – 10:29 a.m.)

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



ITEM-330: Payment of Fees to the Firm of Butz Dunn & DeSantis, APC Related to Defense of the City in Litigation Filed by Homeowners in the Vicinity of Soledad Mountain Road and Desert View Drive. (La Jolla/Mt. Soledad Community Area. District 2.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the Following Resolution:

(R-2008-1151)            ADOPTED AS RESOLUTION R-303830

Authorize the Mayor to increase the contract amount with Butz Dunn & DeSantis, APC by \$750,000 for a total amount not to exceed \$1,000,000 pursuant to the schedule related to litigation filed by homeowners in the vicinity of Soledad Mountain Road and Desert View Drive;

Authorize the City Auditor and Comptroller to appropriate and expend \$1,000,000 as reflected on the FTE schedule for the purpose of funding the contract with Butz Dunn & DeSantis, APC;

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

**SUPPORTING INFORMATION:**

In the latter part of 2007, a sudden natural event occurred in the vicinity of Soledad Mountain Road and Desert View Drive which resulted in significant damage to City infrastructure and private property. As a result of this occurrence numerous claims have been filed against the City as well as at least two (2) lawsuits. On October 9, 2007, the City Council authorized the Mayor to retain outside legal counsel to represent the City in regard to said claims and suits. As a result the City entered into a contract with the law firm of Butz Dunn & DeSantis, APC in the amount of \$250,000. The proposed action would authorize the Mayor's Office to increase the contract amount for legal fees of Butz Dunn & Desantis in the amount not to exceed \$1,000,000.

**FISCAL CONSIDERATIONS:**

Payments will be made using the Fiscal Year 2008 FTE Cost Allocation Table; \$739,000 from General Fund and \$261,000 from Enterprise Funds.

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

In Closed Session on October 9, 2007, by motion of District 7 and second by District 1, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 7, and 8, Nays Districts 4 and 6 voted, with District 5 absent, to authorize the Mayor to retain outside counsel to represent the City.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

District 2 residents.

Bych/Lewis

Aud. Cert. 2800804.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:14 a.m. – 11:16 a.m.)

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



ITEM-331: Fluoridation Funding Offer from First 5 Commission.

(See Report to the City Council No. 08-084.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1090 Rev.) ADOPTED AS AMENDED AS RESOLUTION R-303832

Acknowledging the receipt of correspondence from the First 5 Commission offering an amount not to exceed \$3,927,016 for the purpose of fluoridating the public water supply in the City of San Diego;

Authorizing the Mayor, or his designee, to enter into negotiations, for and on behalf of the City, with the First 5 Commission to determine the funding mechanism, costs, schedule and other elements necessary to implement fluoridation of the City public water supply;

Declaring this action is exempt from the California Environmental Quality Act (CEQA) pursuant to California Public Resources Code Section 21080.26, which provides exemption for “minor alterations to utilities” necessary to comply with Title 22 California Code of Regulations (CCR) Section 64433 (California Fluoridation Regulation) and Health and Safety Code 11610.

**STAFF SUPPORTING INFORMATION:**

The City has received a letter from the First 5 Commission (Commission) of San Diego County offering up to \$3,927,016 for the purpose of fluoridating the public water supply in the City of San Diego. The Commission was established by the California Children and Families Act in 1998 and is responsible for implementing the Act by, among other activities, funding programs and activities that promote early childhood development from the prenatal stage to age five. The Commission’s offer is for full funding of the capital costs and up to two years of operating and maintenance expenses necessary to implement fluoridation at each of the City’s three water treatment plants.

In 1995, State law amended the California Safe Drinking Water Act to require water providers with over 10,000 service connections (which includes the City) to fluoridate their water supplies. However, a public water system is exempt from fluoridating until sufficient outside funding is available. An outside source is generally defined as a source other than rate payers, bond holders or any other fees levied by the water system. This State legislation is preemptive of any local ordinances, regulations or initiatives. Both the California Attorney General and the Office of the City Attorney opined that when sufficient funding became available, San Diego Municipal Code Section 67.0101, prohibits the City from fluoridation, would be preempted by state law.

In light of the current funding offer from the Commission, the City Attorney’s office has concluded that the exemption under which the City has operated would no longer apply. Moreover, the State Department of Public Health (DPH) has issued a letter to the City acknowledging the offer of funding from the Commission and has formally withdrawn the City’s exemption from fluoridation. This action by the DPH triggers the start of a two-year timeline the City is required to follow for the design and construction of the necessary infrastructure for fluoridation.

**FISCAL CONSIDERATIONS:**

None associated with this action. The resulting contract with the Commission will specify that funding for full design/construction costs and 2 years of operation and maintenance will be provided by the Commission. Negotiations will include establishing the mechanism for “front funding” project expenditures by the Commission; developing the public notification and outreach components required to inform citizens of the forthcoming fluoridation effort; and

finalizing project costs, schedules and project management components for the design and construction of fluoride infrastructure at each plant. The City need not operate the fluoridation system once it is installed unless outside funds are thereafter provided in any fiscal year to cover non-capital and maintenance costs.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None with this action. As part of the implementation of this project, the City will provide a variety of public notifications to rate payers, citizens, hospitals, dental associations, and other stakeholders.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All customers of the City of San Diego Water Department, public health professionals, rate payers, and the Department of Public Health.

Ruiz/Barrett

Staff: Alex Ruiz - (619) 533-6692  
Raymond C. Palmucci - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 4:46 p.m.)

MOTION BY MADAFFER TO ADOPT AS AMENDED TO INCLUDE THE FOLLOWING: THE CITY ATTORNEY IS TO RETURN TO COUNCIL WITH AN ORDINANCE THAT WOULD REPEAL MUNICIPAL CODE SECTION §67.0101, WHICH CURRENTLY PROHIBITS THE CITY FROM FLUORIDATION AND CURRENTLY STATES THE CITY CANNOT USE RATEPAYER MONIES FOR FLUORIDATION; TO CHANGE THE LANGUAGE IN THE RESOLUTION WHICH READS, “AND OTHER ELEMENTS NECESSARY AND IMPLEMENT,” TO READ, “AND OTHER ELEMENTS NECESSARY AND EXECUTE THE CONTRACT TO IMPLEMENT THE FLUORIDATION OF THE PUBLIC WATER SUPPLY.” Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: Grant Application to U.S. Department of Housing and Urban Development HUD Lead Hazard Control Program. (Citywide.)

(See San Diego Housing Commission Report No. 08-001.)

**SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-660)                      ADOPTED AS RESOLUTION R-303833

Authorizing the San Diego Housing Commission, on behalf of the City, to submit applications to HUD for the Federal Fiscal Year (FFY) 2008 Lead Hazard Reduction Demonstration Grant and the Lead-Based Paint Hazard Control Grant Programs;

Finding that the application for this grant is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) and from further review under the National Environmental Policy Act (NEPA) pursuant to 24 CFR 58.34(a)(12). If awarded, the lead-paint abatement activities funded under the grant will be conducted fully within the requirements of state and federal environmental laws, rules and regulations;

Authorizing the Housing Commission's President and Chief Executive Officer, on behalf of the City, to execute all necessary documents and contracts with HUD and participating non-profit organizations and City Department to implement the grant(s).

**STAFF SUPPORTING INFORMATION:**

In 2002, the City of San Diego began implementation of the Lead Safe Neighborhoods Program (LSNP). This partnership marshaled resources from various City and County agencies and departments as well as non-profit and community-based organizations to maximize lead hazard abatement resources and improve effectiveness. As a partner in the LSNP, the Housing Commission applied for and received \$1.8 million in Lead Hazard Control Grant funding which resulted in 167 residential units being made lead-safe.

The Lead Safe San Diego Program (LSSD) was created in 2005 by the Housing Commission, the City of San Diego's Lead Safe Neighborhoods Program and the Environmental Health Coalition to help continue the success of the 2002 grant. LSSD on behalf of the City of San Diego applied for and received \$7 million from two HUD Lead Hazard Control grants. These three-year grants will remediate over 550 residences by their completion in November of 2008. This grant funding has become an integral part of the Housing Commission's Housing Rehabilitation Programs by providing funding for San Diegans Citywide to help defray the high costs of lead remediation that would otherwise jeopardize the rehabilitation of their homes. After nearly five years of experience in administering these grants, the Commission has built the infrastructure necessary to assure the success of the program.

The proposed 2008 funding would allow the Commission to maintain current staffing and production levels. The funding would pay for lead remediation of approximately 550 housing units Citywide over the three-year grant period. Failure to apply for and receive these grants would lead to the elimination of five staff position and would severely impact program production. Without the lead grant funding to defray the high costs of the required lead work, many rehabilitation projects will not be feasible. Successful award of only one of the grants would reduce staff by three positions and still have a substantial impact on program production.

**FISCAL CONSIDERATIONS:**

The Lead-Based Paint Hazard Control Grant Program renewal would provide up to \$3 million in federal funding and the Lead Hazard Reduction Demonstration Grant Program renewal would provide an additional \$4 million. The provisional staff required to support these grants is already in place and would be carried over from the 2005 program with direct personnel costs being covered by the grants.

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

On June 7, 2002 and June 11, 2002, the Housing Commission and Housing Authority respectively (HCR-02-046) approved the application for a HUD Lead-Based Paint Hazard Control Grant which was awarded \$1,889,755 for a targeted area in Council District 8.

On May 6, 2005, and May 24, 2005, the Housing Commission and Housing Authority respectively (HCR-05-032) approved the applications for two HUD Lead Hazard Grants of \$7 million which were successfully awarded for a Citywide program.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The response to the Lead Safe San Diego program has been extremely positive since 2002 with over 700 owners and tenants participating in the program Citywide. The awareness level of lead hazards has increased as a result of the partnership created by these efforts and thus the demand for services to remediate lead hazards has increased.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

Owner-occupants or tenants Citywide earning less than 80% of Area Median Income (\$56,150 for a family of four) who have resident or frequently visiting children under six years of age and live in housing built before 1978 would be the beneficiaries.

Fisher/Vaughan

**NOTE:** See the Housing Authority Agenda on June 10, 2008 for a companion item.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 4:53 p.m. – 4:55 p.m.)

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

**REPORT OUT OF CLOSED SESSION:**

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

**FILE LOCATION:** MINUTES

**COUNCIL ACTION:** (Time duration: 6:37 p.m. – 6:39 p.m.)

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Council President Pro Tem Madaffer at 6:41 p.m. in honor of the memory of:

Commander Bert Decker as requested by Council Member Frye.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:39 p.m. – 6:41 p.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego