

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 1
FOR THE REGULAR MEETING OF
MONDAY, DECEMBER 5, 2005 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

* ITEM-S400: Otay Mesa/Nestor Branch Library.

(Otay Mesa/Nestor Community Area. District 8.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2006-533)

Authorizing a \$75,000 increase in Fiscal Year 2006 Capital Improvement Program Budget in CIP-35-087.0, Otay Mesa/Nestor Branch Library, in Fund No. 79517, Otay Mesa - Nestor DIP;

Authorizing the City Auditor and Comptroller to appropriate and expend \$75,000 from Fund No. 79517, Otay Mesa - Nestor DIP, into CIP-35-087.0, for the purpose of providing funding for the project and related costs, provided that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$75,000 from CIP-35-087.0, Otay Mesa/Nestor Branch Library, Fund No. 79517, Otay Mesa - Nestor DIF, solely and exclusively for the purpose of providing funds for the project and related costs, provided that the City Auditor and Comptroller furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Declaring this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(c). This activity is a subsequent discretionary approval covered under Project No. 5220, Otay Mesa/Nestor Branch Library Expansion. 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;

ADOPTION AGENDA, CONSENT ITEMS (Continued)
RESOLUTIONS: (Continued)

* ITEM-S400: (Continued)

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

CITY MANAGER SUPPORTING INFORMATION:

The original Otay/Nestor Branch Library, located at 3003 Coronado Avenue, was built in 1985. The project consists of renovation and repair of the existing 10,000 sq. ft. library and the design and construction of a 5000 sq. ft. expansion that will accommodate the additional program requirements for the facility, and provide the required space to serve this growing community. On January 14, 2004, two bids were received and opened for the project construction. The lowest responsible bidder was Echo Pacific Construction, with a bid of \$3,600,351.

Council approved the award of construction contract for the Otay Mesa/Nestor Library on February 9, 2004, per Resolution RR-298894. On February 1, 2005, per Resolution RR-30013, City Council approved that \$300,000 in interim funds be provided to purchase FFE (Furnishings, Fixtures, and Equipment) required for the opening and operation of the Library. Construction is nearly complete and the project is scheduled to open this winter.

This summer, the community initiated that \$75,000 of DIF funding be provided for the purchase of additional FFE for the library. On August 10, 2005, the Otay Mesa/Nestor Community Planning Committee voted to provide \$75,000 of DIF funding for additional furnishings and material needed for the Otay Mesa Branch Library. The motion passed 13-1-0.

FISCAL IMPACT:

The total project cost is \$5,038,500, of which \$4,963,500, has been previously authorized. \$75,000 is available in Otay Mesa/Nestor DIF Fund No. 79517 and will be transferred into CIP-35-087.0, Otay Mesa/Nestor Branch Library.

Mendes/Boekamp/AO

Aud. Cert. 2600412.

Staff: Afshin Oskoui - (619) 533-3102
Christina L. Bellows - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-S401: Grant Application to the State of California, Office of Emergency Services (OES) for Elder Abuse and Same Sex Domestic Violence Grant.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-538)

Authorizing the San Diego City Attorney, or designee, to apply for grant funding for the Elder Abuse and Same Sex Domestic Violence Program;

Authorizing the San Diego City Attorney, or designee, to execute and submit all documents necessary to comply with the grant requirements;

Authorizing the San Diego City Attorney, or designee, to accept \$57,823 in additional grant funding and to amend end date from June 30, 2005, to December 31, 2005, for the Elder Abuse and Same Sex Domestic Violence Program;

Authorizing the San Diego City Attorney, or designee, to accept, appropriate, expend, and administer the grant funds, if and when secured, in accordance with the terms and conditions of the grant program;

Declaring pursuant to the terms and conditions of the grant program:

1. The City is authorized to appropriate all matching funds required for the project, including any amendments thereof.
2. Any liability arising out of the City's performance under these grants, including civil court actions for damages shall be the responsibility of the City.
3. All funds received pursuant to these grants shall be spent exclusively for the project and shall not be used to supplant expenditures controlled by the City Council.

ADOPTION AGENDA, CONSENT ITEMS (Continued)RESOLUTIONS: (Continued)

* ITEM-S401: (Continued)

SUPPORTING INFORMATION:

The City Attorney's Office received notification from the State of California, Office of Emergency Services that Grant Award Agreement No. VV04067919 was amended to change the end date from June 30, 2005 to December 31, 2005. The Grant is also amended to increase the Violence Against Women Prosecution (VAWA) award amount by \$57,823. This award has a 25% match requirement, which will be met through existing staff salaries. This is a renewal grant for the project started in 1998. The project will continue to address Elder Abuse and Same Sex Domestic Violence in the City of San Diego. The efforts of the prosecutors, investigator and victim services advocate funded by this grant have been effective in addressing Elder Abuse and Same Sex Domestic Violence in the City of San Diego. As a means of increasing awareness and prosecution of Elder Abuse, the prosecutor conducts outreach to seniors, conducts trainings to Law Enforcement officers, and participates in programs such as the District Attorney's TRIAD program and Elder Abuse Council.

The Same Sex Domestic Violence component is being effectively addressed by outreach efforts to the gay and lesbian community. The Same Sex prosecutor continues to provide presentation to the Lesbian and Gay Men's Community Center, community centers and rehabilitation facilities to dispel some of the myths and concerns about domestic violence in gay and lesbian relationships and provide information about the prevention and prosecution of Same Sex Domestic Violence. The prosecutor continues to train members of law enforcement to enhance officers' awareness of same sex domestic violence so that potential cases are captured at the scene.

The City is authorized to appropriate all matching funds required for the project, including any amendments thereof. Any liability arising out of the City's performance under these grants, including civil court actions for damages shall be the responsibility of the City. All funds received pursuant to these grants shall be spent exclusively for the project and shall not be used to supplant expenditures controlled by the City Council.

Irvine/Katz

ADOPTION AGENDA, CONSENT ITEMS (Continued)
RESOLUTIONS: (Continued)

- * ITEM-S402: Fifth Amendment to Agreement with HDR Engineering Inc. for Construction Management/Program Manager Services for Metropolitan Wastewater Department.

(Rancho Bernardo, San Pasqual, and Lake Hodges Community Areas. District 5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-523)

Authorizing the City Manager to execute Amendment No. 5 to the Agreement with HDR Engineering Inc., for As Needed Construction Manager/Program Manager Services (Fifth Amendment) in an amount not to exceed \$435,059, under the terms and conditions set forth in the Fifth Amendment which brings the total contract amount to \$13,701,694;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$435,059 from Sewer Fund 41506, CIP-46-506.0, Pipeline Rehabilitation in the Right of Way Phase B, to Fund 41506, CIP-46-106.0, Annual Allocation Pump Station Restorations;

Approving the expenditure of an amount not to exceed \$435,059 from Fund 41506, CIP-46-106.0, Annual Allocation - Pump Station Restorations to fund the Fifth Amendment;

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

Declaring this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines 15378(c). This activity is a subsequent discretionary approval covered under an exemption of the project pursuant to CEQA Guidelines 15301. The activity is adequately addressed in that determination and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15177.

ADOPTION AGENDA, CONSENT ITEMS (Continued)
RESOLUTIONS: (Continued)

* ITEM-S402: (Continued)

CITY MANAGER SUPPORTING INFORMATION:

The rehabilitation of sewer pump station numbers 77A and 77B (SPS 77 A&B) is an on-going project which commenced construction in December of 2002. SPS 77A was last upgraded in 1984, and has since experienced numerous electrical and mechanical failures. If SPS 77A is shut-down or fails to operate for more than just a few minutes, sewage is diverted to an open, man-made storage pond which has a capacity of approximately 24 hours. Exceeding the capacity of the pond could result in a discharge to the adjacent potable water reservoir, Lake Hodges. This project is an EPA Consent Decree required project and the EPA is aware of the current project status.

Construction is running significantly longer than anticipated due to difficulties with the installation and operation of the new switchgear and with the new pump configurations. In addition to the complexities of the project, the contractor is having difficulties with his subcontractors/vendors. Four stop notices, totaling \$875,658.71, have been received which require the city to withhold \$1,094,573.39 in payment. One lawsuit has been filed by a subcontractor, Beacon Electric, and MWWD anticipates additional claims, potential litigation, and the need for future mediation. MWWD has been working with the City Attorney's office on resolving the numerous contractual and potential claims issues while enabling this critical project to be completed.

Due to the added construction duration and the need for future claim, mediation, and/or litigation support services, MWWD requests the approval of Amendment No. 5 to the existing multi-year, department-wide Program Management/Construction Management as-needed contract with HDR Engineering Inc, in the amount of \$435,059, bringing the new contract total to \$13,701,694. The total amended amount will be used to complete existing Task Order No. 4 for SPS 77 A&B. No further amendments to the contract with HDR Engineering Inc., are anticipated at this time. HDR Engineering, Inc. is an employee-owned corporation with 85 offices throughout the United States. The corporation's CEO is Richard R. Bell, P. E., and the parent company is located in Omaha, NE.

FISCAL IMPACT:

The total cost of this action is \$435,059. Funds are available in Fund 41506, CIP-46-506.0, Pipeline Rehab in the ROW, Phase B project. This project is part of the existing capital improvement program and is not dependent upon future financing proceeds.

Mendes/Tulloch/CW

Aud. Cert. 2600402.

Staff: Craig Whittemore - (858) 292-6471
James W. Lancaster - Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION:

ITEM-S403: Restructuring of Sewer System Interim Financing and Approval of Related Documents.

(See City Manager Report CMR-05-199 and memorandum from the City Attorney dated 11/2/05.)

(Continued from the meeting of November 29, 2005, Item 50, at the request of Deputy Mayor Atkins, to allow Councilmember Maienschein to be present and vote.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was previously re-introduced as amended on 11/14/2005, Item 202. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant):

(O-2006-54)

Approving the Form and authorizing the execution and delivery of a First Supplemental Subordinated Indenture and a First Amendment to 2004 Supplement to Master Installment Purchase Agreement and approving certain other agreements and actions in connection therewith, pursuant to Section 99 of the Charter of the City of San Diego.

Note: 6 votes required.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)
ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION: (Continued)

ITEM-S404: Second Amendment to Consultant Agreement with MWH Americas, Inc. for the Otay Water Treatment Plant Upgrade.

(Unincorporated Area of San Diego County.)

(Continued from the meeting of November 29, 2005, Item 51, at the request of Deputy Mayor Atkins, to allow Councilmember Maienschein to be present and vote.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/14/2005, Item 56. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant):

(O-2006-53)

Authorizing the City Manager, or duly authorized representative, to execute a Second Amendment to Agreement between the City of San Diego and MWH Americas, Inc. for Consulting Services for the Otay Water Treatment Plant Upgrade (Second Amendment), together with any reasonably necessary modifications or amendments thereto which do not increase agreement scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of the agreement;

Authorizing the City Auditor and Comptroller to transfer \$65,000 from Water Fund 41500, CIP-73-250.0, Otay Water Treatment Plant Clearwell Storage Project, to Water Fund 41500, CIP-73-285.0, Otay Water Treatment Plant Upgrade Phase 2;

Authorizing the appropriation and expenditure of an amount not to exceed \$1,605,023 from Water Fund 41500, CIP-73-285.0, Otay Water Treatment Plant Upgrade Phase 2, for the purpose of funding the Second Amendment and related in-house engineering costs;

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

Declaring that this activity is not a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(c) because it is a subsequent discretionary approval related to the project approved by Resolution No. R-294237 and within the scope of Mitigated Negative Declaration LDR No. 40-0932 (Project No. 96004551).

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

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)
ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION: (Continued)

ITEM-S405: Awarding Contracts to American Eurocopter, FLIR Systems, Incorporated, and JetSource Avionics for the Acquisition and Equipping of Law Enforcement Helicopters.

(See City Manager Report CMR-05-180; and CMR-05-220, not available at Committee.)

(Continued from the meeting of November 29, 2005, Item 52, at the request of Deputy Mayor Atkins, to allow Councilmember Maienschein to be present and vote.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/14/2005, Item 151, Subitem A. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant):

(O-2006-57)

Authorizing and directing the City Manager, or designee, to award a contract to American Eurocopter for the purchase of four AS350B3 "Astar" law enforcement helicopter frames, on such terms as identified in the Department's Helicopter Request for Proposals;

Authorizing and directing the City Manager, or designee, to award a contract to FLIR Systems, Incorporated, for the purchase of two Forward Looking Infrared Systems to be installed on the new helicopters, on such terms as identified in the Department's Specialized Equipment Request for Proposals;

Authorizing and directing the City Manager, or designee, to award a contract to JetSource Avionics to FLIR Systems, Incorporated, such firm to provide for the equipping and outfitting of the helicopters, on such terms as identified in the Department's Special Services Request for Proposals;

Authorizing and directing the City Manager, or designee, to declare his intent to cause the sale of the Police Department's existing helicopters in accordance with the terms of the Charter and existing Council Policy;

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)
ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION: (Continued)

ITEM-S405: (Continued)

Authorizing and directing the City Manager, or designee, to proceed with the financing of the helicopters utilizing the City's Equipment & Vehicle Financing Program, and to cause the execution and delivery of the First Amendment of the Master Lease Agreement, dated as of its dated date, together with the Appendix thereto, including that certain Aircraft Supplement to the Master Lease, with Bank of America Leasing & Capital, LLC, the forms of which have been presented to this Council, with such changes therein and modifications thereof as the City Manager, the Deputy City Manager, or designee, in consultation with the City Attorney, shall determine are necessary or desirable to effectuate the purposes of this Ordinance, such approval to be conclusively evidenced by the execution and delivery thereof;

Declaring all actions heretofore taken by any officers, employees, or agents of the City with respect to purchase of the helicopters or related to any documents referenced herein, or the financing of said helicopters, including the execution and delivery of the First Amendment to the Master Lease Agreement, together with the Appendices thereto, are hereby approved, confirmed and ratified; and any the City Manager, the Deputy City Manager and any such other officers, employees or agents of the City as may be authorized by the City Manager or the Deputy City Manager are hereby authorized and directed, for and in the name of and on behalf of the City, to do all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable to consummate the transactions evidenced by the documents referenced herein in accordance with this Ordinance.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
ORDINANCES TO BE INTRODUCED:

ITEM-S406: Awarding Contract and Agreement with Community Recycling and Resource Recovery, Inc. (Community), to Design, Construct, and Operate a Construction, Demolition, and Inert Materials Recovery Facility at Miramar Landfill.

(See City Manager Report CMR-05-222, not available at the Committee; and City Manager Report CMR-05-205.)

(Continued from the meeting of November 29, 2005, Item 54, at the request of Deputy Mayor Atkins, to allow Councilmember Maienschein to be present and vote.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2006-60)

Introduction of an Ordinance authorizing the City Manager to award and execute, for and on behalf of the City, an agreement with Community Recycling and Resource Recovery, Inc. (Community), to design, construct, and operate a construction, demolition, and inert materials recovery facility at Miramar Landfill, contingent on the future environmental review of the project, approval of a permit, and approval and execution of a site sublease with Community, under the terms and conditions set forth in the agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend the following estimated amounts for the operation of the facility and provision of the services in connection with the agreement described above, contingent upon the inclusion of the following estimated amounts in the City Council approved budget for the respective fiscal years, and provided that the City Auditor and Comptroller issues certificates demonstrating that the funds are, or will be, on deposit with the City Treasurer:

Fiscal Year 2007	\$4,800,000
Fiscal Year 2008	\$6,800,000
Fiscal Year 2009	\$7,000,000
Fiscal Year 2010	\$7,100,000
Fiscal Year 2011	\$7,300,000
Fiscal Year 2012	\$7,400,000
Fiscal Year 2013	\$7,600,000
Fiscal Year 2014	\$7,800,000
Fiscal Year 2015	\$8,000,000
Fiscal Year 2016	\$8,100,000
Fiscal Year 2017	\$8,300,000
Fiscal Year 2018	\$8,500,000
Fiscal Year 2019	\$8,700,000

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)
ORDINANCES TO BE INTRODUCED: (Continued)

ITEM-S406: (Continued)

Declaring this activity is not subject to CEQA pursuant to CEQA Guideline Section 15060(c)(2) because contingent approval of the agreement described in Section 1 above will not result in a direct or reasonably foreseeable indirect physical change in the environment.

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

Informational report. No action taken.

Aud. Cert. 2600391.

Staff: Kip Sturdevan – (858) 573-1214
Grace C. Lowenberg – Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS
SPECIAL HEARINGS:

ITEM-S407: Funding Appropriation from Anticipated Surplus General Fund Property Tax Revenue into the Citywide Program Department for the Audit Services Provided by Macias Gini & Company for the Fiscal Year 2005 Financial Statements.

CITY MANAGER'S RECOMMENDATION:

Hold the first public hearing of the ordinance:

(O-2006-71)

An Ordinance amending Ordinance No. O-19396 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2005-2006 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year," by increasing General Fund appropriation from anticipated surplus tax revenues in an amount not to exceed \$338,360 and increasing General Fund department appropriation, Citywide Program Department, Dept. 61, Org. 2450, to pay the costs of audit services performed by Macias Gini & Company, for the Fiscal Year 2005 financial statements;

Authorizing and directing the City Auditor and Comptroller to expend an amount not to exceed \$338,360 from Citywide Program Department, Dept. 61, Org. 2450, to pay the costs of audit services performed by Macias Gini & Company, for the Fiscal Year 2005 financial statements.

NOTE: Today's action is the first public hearing. See Item S500 on the docket of Tuesday, December 6, 2005, for the second public hearing and introduction and adoption of the Ordinance.

CITY MANAGER SUPPORTING INFORMATION:

The Agreement with Macias Gini and Company LLP for audit services for the City of San Diego Fiscal Year 2005 Financial Statements was approved and adopted by the City Council on August 8, 2005 (R-300771). This action authorized the City Manager to enter into a sole source agreement not to exceed \$844,977 with Macias Gini & Company LLP for audit services for the City of San Diego Fiscal Year 2005 financial statements, and authorized the expenditure of \$844,977 for audit services. Of the authorized expenditure amount of \$844,977, \$433,790 was the General Fund share. Although the Citywide Program has a total budget of \$48 million, the annual audit program within Citywide has a Fiscal Year 2006 balance of \$95,430 available for audit fees.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)
SPECIAL HEARINGS: (Continued)

ITEM-S407: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

It is requested that the City Council authorize the City Auditor and Comptroller to appropriate \$338,360 of anticipated surplus General Fund Property Tax revenues as identified in City Manager Report No. 05-202, dated October 6, 2005, into Citywide Program Department, Dept. 601, Org. 2450 ("Annual Audit") and expend for audit services provided by Macias Gini and Company for the City of San Diego's Fiscal Year 2005 financial statements. The use of this revenue for this purpose may impact future available revenue, depending on the performance of all General Fund Revenue.

Per the Appropriations Ordinance, Section 2, the City Auditor and Comptroller is authorized, upon the direction of the Financial Management Director, to transfer up to \$100,000 in appropriations within each budgeted Citywide Expenditures Program. Since this request exceeds the \$100,000 threshold, Council approval is required. This action will authorize the appropriation of the necessary funding for the Citywide portion of the audit services provided by Macias Gini and Company for the Fiscal Year 2005 Financial Statements.

**CITYWIDE PROGRAM'S PROFESSIONAL FEES AND EXPENSES
 FOR THE AUDIT OF THE JUNE 30, 2005 FINANCIAL STATEMENTS**

Total cost for FY 2005 Financial Statements Audit	\$844,977
General Fund (Citywide Program Department) Expenses for FY 2005 Financial Statements Audit	\$433,790
Citywide Annual Audit FY 2006 Balance Available	(\$ 95,430)
Amount Requested for Authorization	\$338,360

Irvine/Villa

Aud. Cert. 2600423.

Staff: Angela Means – (619) 236-6375
 Mark D. Blake – Deputy City Attorney