

REVISED

CITY OF SAN DIEGO COUNCIL AGENDA



COUNCIL PRESIDENT

Myrtle Cole • Fourth District

COUNCIL PRESIDENT PRO TEM

Barbara Bry • First District

COUNCILMEMBERS

Lorie Zapf • Second District
Christopher Ward • Third District
Mark Kersey • Fifth District
Chris Cate • Sixth District
Scott Sherman • Seventh District
David Alvarez • Eighth District
Georgette Gómez • Ninth District

Andrea Tevlin
Independent
Budget Analyst

Mara W. Elliott
City Attorney

Elizabeth Maland
City Clerk

Council Chambers, 12th Floor, City Administration Building
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Tuesday, October 30, 2018

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, OCTOBER 30, 2018, AT 10:00 AM
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

ALTERNATE FORMATS

This information will be made available in alternative formats upon request, as required by the Americans with Disabilities Act (ADA), by contacting the City Clerk at (619) 533-4000 or <mailto:cityclerk@sandiego.gov>. Requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services or interpreters, require different lead times. Please keep this in mind and provide as much advance notice as possible in order to ensure availability. Assistive Listening Devices (ALDs) are available in Council Chambers upon request.

SENATE BILL 343 (LATE-ARRIVING MATERIALS)

Pursuant to California Senate Bill 343 (Section 54957.5(b) of the Brown Act), late-arriving documents related to City Council meeting agenda items which are distributed to the legislative body prior to and during the Council meeting are available for public review in the Office of the City Clerk on the second floor of the City Administration Building, 202 C Street, San Diego, CA 92101. This relates to those documents received after the agenda is publicly noticed and during the 72 hours prior to the start of the meeting. Please note: Approximately one hour prior to the start of the Council Meeting, the documents will be available just outside Council Chambers in the lobby of the 12th floor of the City Administration Building in a binder labeled “SB 343.” Late-arriving materials received during the City Council meeting are available for review by making a verbal request of City Clerk staff located in Council Chambers.

NOTE: The City Council will meet in Closed Session this morning at 11:00 a.m. Public comment on Closed Session items will occur toward the end of the 10:00 a.m. session before Council adjourns into Closed Session. Copies of the Closed Session agenda are available in the Office of the City Clerk.

OTHER LEGISLATIVE MEETINGS

PUBLIC FACILITIES FINANCING AUTHORITY is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact Bret Bartolotta at (619) 533-5894. Internet access to the agenda is available at:

<https://www.sandiego.gov/city-clerk/officialdocs/legisdocs/pffa>

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF COUNCIL MINUTES

09/17/2018

09/18/2018

ADOPTION AGENDA, CONSENT ITEMS

The Consent items listed are considered to be routine, and the environmental documents have been considered. Because these items may be handled quickly, if you wish to be heard submit your Request to Speak form prior to the start of the meeting.

ADOPTION AGENDA

CONSENT, ORDINANCES TO BE INTRODUCED:

Item 50: Request to Exempt One Program Coordinator Position in the Department of Government Affairs from the Classified Service.

Total Estimated Cost of Proposed Action and Funding Source:

Funding for this position was approved in the Fiscal Year 2019 Adopted Budget.

Council District(s) Affected: Citywide.

Proposed Actions:

(O-2019-56)

Introduction of an ordinance authorizing the exemption of one Program Coordinator position in the City's Government Affairs Department from the Classified Service, based on advisory review and favorable comment by the Civil Service Commission on October 4, 2018. This Program Coordinator position will be responsible for coordinating Grant writing and external advocacy efforts for the City. This action is brought under San Diego Charter Section 117(a)(17).

Committee Actions Taken: N/A

Government Affairs: Patrick Bouteller, (619) 533-5965

City Attorney Contact: Joan F. Dawson

Item 51: First Amendment to the Agreement between the City of San Diego and SpinifexIT North America, Inc., for software licenses.

Total Estimated Cost of Proposed Action and Funding Source:

A term of up to 7 years to extend the Contract with an amount not-to-exceed of \$221,795. Funds are budgeted in the OneSD fixed costs annual allocations from Fund 200610 – SAP Support Fund.

Council District(s) Affected: Citywide.

Proposed Actions:

(O-2019-038)

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute the First Amendment to the Agreement with SpinifexIT North America, Inc., extending the Agreement for a term of up to an additional seven years, and increasing the not-to-exceed amount by \$221,795, for a total not-to-exceed amount of \$461,795.

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

Committee Actions Taken:

This item was heard at the Budget and Government Efficiency Committee meeting on October 17, 2018.

ACTION: Motion by Councilmember Gómez, second by Councilmember Cate, to recommend Council approval of staff's proposed action.

VOTE: 3-0; Bry-yea, Cate-yea, Gómez-yea, Ward-not present.

Department of Information Technology: Michelle Villa, (619) 236-6610

City Attorney Contact: Steven Lastomirsky

ADOPTION AGENDA

CONSENT, RESOLUTIONS TO BE ADOPTED:

Item 100: Amendment of the Flexible Benefit Plan for Eligible Employees for Fiscal Year 2019.

Total Estimated Cost of Proposed Action and Funding Source:

Funding is appropriated in the Annual Budget.

Council District(s) Affected: Citywide.

Proposed Actions:

(R-2019-199)

Resolution adopting the amended and restated Flexible Benefits Plan for Fiscal Year 2019.

Committee Actions Taken: N/A

Risk Management: Julio Canizal, (619) 236-6651

City Attorney Contact: Thomas J. Brady

Item 101: Settlement Agreement of City of San Diego v. MM San Diego, LLC, United States District Court Case No. 3:16-cv-00964-WQH-BGS.

Total Estimated Cost of Proposed Action and Funding Source:

The sum of \$2,264,000, will be paid from Metropolitan Sewer Utility Fund No. 700001 for acquisition of North City Cogeneration Facility.

An additional sum not-to-exceed \$400,000 will be paid from Metropolitan Sewer Utility Fund No. 700001 for electric demand control measures at Metro Biosolids Center.

An additional sum not-to-exceed \$700,000 will be paid from Metropolitan Sewer Utility Fund No. 700001 for operation and maintenance of North City Cogeneration Facility in FY 2019.

Council District(s) Affected: 6.

Proposed Actions:

(R-2019-201)

Resolution authorizing the settlement of the litigation entitled City of San Diego v. MM San Diego, LLC, United States District Court Case No. 3:16-cv-00964-WQH-BGS to include the following: (a) transfer of the North City Cogeneration Facility to the City; (b) execution of the "City of San Diego and Fortistar Services LLC, Operation and Maintenance Services Agreement";

and (c) execution of the "Second Amendment to Amended and Restated Privatized Cogeneration Facility and Energy Sales Agreement."

Committee Actions Taken: N/A

Office of the City Attorney: Fritz Ortlieb, (619) 236-6318

Item 102: Settlement of Jane Doe v. City of San Diego, United States District Court Case No. 14cv01941 L (AGS), Claim No. 9209.

Total Estimated Cost of Proposed Action and Funding Source:

Settlement amount of \$110,000 will be paid from Public Liability Fund No. 720045.

Council District(s) Affected: Citywide.

Proposed Actions:

(R-2019-168)

Resolution authorizing the settlement of Jane Doe v. City of San Diego, United States District Court Case No. 14cv01941 L (AGS), for violation of constitutional rights and personal injuries allegedly sustained as a result of police permit inspections conducted at Cheetahs and Exposé Adult Clubs. Claim No. 9209.

Committee Actions Taken: N/A

Office of the City Attorney: Le-Mai Dam, (619) 533-5804

Item 103: Settlement of Tanya A. et al. v. City of San Diego, United States District Court Case No. 14cv01942-L (AGS), Claim No. 9267.

Total Estimated Cost of Proposed Action and Funding Source:

Settlement amount of \$1,382,500, will be paid from Public Liability Fund No. 720045.

Council District(s) Affected: Citywide.

Proposed Actions:

(R-2019-171)

Resolution authorizing the settlement of Tanya A. et al. v. City of San Diego, United States District Court Case No. 14cv01942-L (AGS), for constitutional rights and personal injuries allegedly sustained by 16 Plaintiffs as a result of police permit inspections conducted at Cheetahs and Exposé Adult Clubs. Claim No. 9267.

Committee Actions Taken: N/A

Office of the City Attorney: Le-Mai Dam, (619) 533-5804

Item 104: Declaration of a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

Total Estimated Cost of Proposed Action and Funding Source: N/A

Proposed Actions:

(R-2019-93)

Declaration of a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

City Attorney Contact: Thomas C. Zeleny

PROCLAMATIONS/CEREMONIAL ITEMS (NOT PRESENTED IN CHAMBERS)

The following Proclamations will NOT be presented in Council Chambers.

Item 30: Mark Steele Day.

COUNCILMEMBER ALVAREZ'S RECOMMENDATION:

Proclaiming October 30, 2018, to be "Mark Steele Day" in the City of San Diego.

Item 31: George L. Hill Day.

COUNCIL PRESIDENT COLE'S RECOMMENDATION:

Proclaiming November 2, 2018, to be "George L. Hill Day" in the City of San Diego.

Item 32: Runway and Homeless Youth Awareness Month.

COUNCILMEMBER WARD'S RECOMMENDATION:

Proclaiming November 2018, to be "Runaway and Homeless Youth Awareness Month" in the City of San Diego.

Item 33: Nick Cannon Day.

COUNCIL PRESIDENT COLE'S RECOMMENDATION:

Proclaiming November 3, 2018, to be "Nick Cannon Day" in the City of San Diego.

Item S500: Tony Olaes Day. (Added 10/26/18)

COUNCILMEMBER CATE'S RECOMMENDATION:

Proclaiming November 10, 2018, to be "Tony Olaes Day" in the City of San Diego.

SPECIAL ORDERS OF BUSINESS

None.

ITEMS PULLED FROM THE CONSENT AGENDA

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Per Section 22.0101, Rule 2.6.2, of the San Diego Municipal Code, comments are limited to two (2) minutes per speaker. Speakers may not allocate their time to other speakers. If there are eight (8) or more speakers on a single issue, the maximum time allotted for that issue will be sixteen (16) minutes. Non-Agenda Public Comment is limited to 30 minutes during the Tuesday morning Council session. Any remaining speakers will be given an opportunity to speak after Council concludes the remaining agenda items for that day. Speaker order will generally be decided on a first-come, first-served basis. However, in the event that there are more than fifteen (15) Non-Agenda Public Comment speakers on a particular Tuesday, priority may be given to those speakers who did not speak during Non-Agenda Public Comment at the most recent prior Council meeting.

MAYOR, COUNCIL, CITY ATTORNEY, INDEPENDENT BUDGET ANALYST, CITY CLERK COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUESTS FOR CONTINUANCE BY COUNCILMEMBERS

INFORMATIONAL ITEMS

Item 330: Fiscal Year 2018 Year-End Financial Performance Report.

This item will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

Total Estimated Cost of Proposed Action and Funding Source:

There are no fiscal considerations, this is an informational report only.

Council District(s) Affected: Citywide.

Proposed Actions:

This item is informational only.

Committee Actions Taken: N/A

Financial Management: Jose Mendoza, (619) 533-5562

ADOPTION AGENDA, DISCUSSION ITEMS

ADOPTION AGENDA

DISCUSSION, RESOLUTIONS TO BE ADOPTED:

Item 331: Authorization for the Public Facilities Financing Authority of the City of San Diego General Fund Lease Revenue Commercial Paper Notes Program.

This item will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

Total Estimated Cost of Proposed Action and Funding Source:

The General Fund Lease Revenue Commercial Paper Notes Program fees and interest costs for Fiscal Year 2019 are projected to be \$0.5 million, \$1.2 million in Fiscal Year 2020, with additional costs (to be determined) in Fiscal Year 2021. The Fiscal Year 2019 interest costs and ongoing program costs are budgeted in the General Fund. These are estimates based on current interest rates and are subject to change.

Council District(s) Affected: Citywide.

Proposed Actions:

(R-2019-165)

Resolution approving the form and authorizing the distribution of the Offering Memorandum in connection with the Public Facilities Financing Authority of the City of San Diego's issuance and sale of its Lease Revenue Commercial Paper Notes in the principal amount not-to-exceed \$88,500,000, approving the forms and authorizing the execution and delivery of one or more Dealer Agreements, authorizing the execution, delivery and performance of the Reimbursement Agreement, and approving certain other documents and actions.

Committee Actions Taken: N/A

Debt Management: Lakshmi Kommi, (619) 236-6928

City Attorney Contact: Bret A. Bartolotta

See the Public Facilities Financing Authority Agenda of October 30, 2018, for a companion item.

ADOPTION AGENDA

DISCUSSION, NOTICED HEARINGS:

Item 332: North City Pure Water Pipeline - Eminent Domain.

This item will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

Total Estimated Cost of Proposed Action and Funding Source:

\$1,612,900.00 - funds available within the existing CIP Budget, specifically WBS B-16035 and B-15141, sourced from Fund 700010 (Water Fund).

Council District(s) Affected: 1, 5, 6.

Proposed Actions:

Subitem-A: (R-2019-184)

A resolution authorizing the City's acquisition of real property located at Meanley Drive, San Diego (APN-319-170-22) from Scripps Ranch Technology Park, LLC, for \$684,000 for the North City Pure Water Project purposes and for all related eminent domain actions.

Subitem A is not subject to the Mayor's veto.

Subitem-B: (R-2019-186)

A resolution authorizing the City's acquisition of real property located at 10301-43 Meanley Drive (APN 319-170-23) from Mission Federal Credit Union for \$98,100 for the North City Pure Water Project purposes and for all related eminent domain actions.

Subitem B is not subject to the Mayor's veto.

Subitem-C: (R-2019-187)

A resolution authorizing the City's acquisition of real property located at 9862 Via Excelencia, San Diego (APN 341-330-21) from Excelencia, LLC, for \$109,000 for the North City Pure Water Project purposes and for all related eminent domain actions.

Subitem C is not subject to the Mayor's veto.

Subitem-D: (R-2019-188)

A resolution authorizing the City's acquisition of real property located at 10168 Caminto Nuez, San Diego (APN 363-060-02) from Antonia Michele MacFarlane, Trustee of the Antonia Michele MacFarlane Revocable Trust, dated October 17, 2013, for \$650,000 for the North City Pure Water Project purposes and all related eminent domain actions.

Subitem D is not subject to the Mayor's veto.

Subitem-E: (R-2019-189)

A resolution authorizing the City's acquisition of real property located at 4767 Nexus Center Drive, San Diego (APN 345-012-15) from ARE-Nexus Centre II, LLC, for \$65,500 for the North City Pure Water Project purposes and all related eminent domain actions.

Subitem E is not subject to the Mayor's veto.

Subitem-F: (R-2019-190)

A resolution authorizing the City's acquisition of real property located at 5989 Genessee Avenue, San Diego (APN 348-010-59) from San Diego Unified School District of San Diego County for \$4,400 for the North City Pure Water Project purposes and all related eminent domain actions.

Subitem F is not subject to the Mayor's veto.

Subitem-G: (R-2019-191)

A resolution authorizing the City's acquisition of real property located at 7948 Avenida Navidad, San Diego (APN 345-172-08) from Westwood Apartments SD, LLC, for \$1,900 for the North City Pure Water Project purposes and all related eminent domain actions.

Subitem G is not subject to the Mayor's veto.

6 votes required for each subitem, per Code of Civil Procedure Section 1245.240.

Committee Actions Taken: N/A

Real Estate Assets: Barry Slotten, (619) 236-6724

City Attorney Contact: Christine Leone

NON-AGENDA ITEMS

REPORT OUT FROM CLOSED SESSION

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT