



**COUNCIL PRESIDENT SHERRI S. LIGHTNER**

CITY OF SAN DIEGO

August 5, 2015

Judge David J. Danielsen  
Presiding Judge  
San Diego Superior Court  
220 West Broadway  
San Diego, CA 92101

Re: Grand Jury Report: "BALBOA PARK CELEBRATION LESSONS LEARNED"

Dear Judge Danielsen:

Pursuant to California Penal Code Section 933.05(a),(b) and (c), the City of San Diego provides the attached response from the Mayor and City Council to the applicable findings and recommendations included in the above referenced Grand Jury Report.

If you require additional information or have any questions, please do not hesitate to contact Diana Jurado-Sainz, Director of Legislative Affairs, at 619-533-3920.

Sincerely,

Sherri Lightner  
Council President  
City of San Diego

Encl: City Council Resolution R- 309900  
IBA Report Number 15-29



RESOLUTION NUMBER R- 309900

DATE OF FINAL PASSAGE JUL 28 2015

APPROVING THE CITY COUNCIL'S RESPONSE TO THE 2014-2015 SAN DIEGO COUNTY GRAND JURY REPORT TITLED "BALBOA PARK CELEBRATION LESSONS LEARNED."

WHEREAS, on May 20, 2015, the 2014-2015 San Diego County Grand Jury (Grand Jury) filed a report titled "Balboa Park Celebration Lessons Learned" (Report) that requested a response from the City Council (Council) and Mayor; and

WHEREAS, the Report discusses oversight issues related to the City of San Diego's contract with the non-profit organization Balboa Park Celebration, Inc. for the planning and management of a 2015 Balboa Park centennial celebration; and

WHEREAS, the Report includes six findings and six recommendations; and

WHEREAS, under California Penal Code section 933(c), within 90 days after the filing of the report, each public agency which the Grand Jury reviewed, and about which it issued the Report, must comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency; and

WHEREAS, the comments required from the Council and Mayor are due to the Presiding Judge of the Superior Court on August 18, 2015; and

WHEREAS, the Grand Jury requested that the Council respond to six recommendations numbered 15-24, 15-25, 15-26, 15-27, 15-28 and 15-29 in the Report; and

WHEREAS, the Grand Jury also requested a response from the Mayor to recommendations 15-24, 15-25, 15-26, 15-27 and 15-28; and

WHEREAS, the Office of the Independent Budget Analyst has proposed a response to the Report as set forth in IBA Report No. 15-29, dated July 14, 2015, for the Council's consideration; and

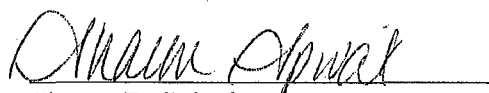
WHEREAS, under Charter section 280(a)(1) this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the Council and not affecting the administrative service of the City under the control of the Mayor; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council approves and adopts as its own the response to the 2014-2015 San Diego County Grand Jury Report titled "Balboa Park Celebration Lessons Learned," as set forth in IBA Report No. 15-29, dated July 14, 2015.

BE IT FURTHER RESOLVED, that the Council President is authorized and directed, on behalf of the San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than August 18, 2015.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Sharon B. Spivak  
Deputy City Attorney

SBS:jdf  
07/14/2015  
Or.Dept: IBA  
Doc. No.: 1062243

Passed by the Council of The City of San Diego on JUL 28 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 28 2015

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309900

## **Proposed Response to San Diego County Grand Jury Report Entitled BALBOA PARK CELEBRATION LESSONS LEARNED**

Pursuant to California Penal Code Section 933(c), the City of San Diego provides the following responses to the findings and recommendations included in the above referenced Grand Jury Report:

### **FINDINGS 01 THROUGH 06**

Below are the Mayor and City Council's responses to findings 01 through 06:

**Finding 01:** *The Memorandum of Understanding (MOU) between BPCI and the City of San Diego lacked sufficient detail to define objectives adequately and to identify funding.*

**Response: The Mayor and City Council disagree with the Grand Jury's finding.**

The MOU contained specific objectives and deliverables with regard to project management and required BPCI to develop the funding model, specifically requiring that BPCI develop a strategic plan for raising the necessary funds, a budget for the Celebration, and a business plan for executing the Celebration within the budget. The MOU contained specific dates for the delivery of these documents. Additional safeguards under this type of contract will be considered in the future.

**Finding 02:** *BPCI did not exercise effective controls over expenditures.*

**Response: The Mayor and City Council agree with the Grand Jury's finding.**

As stated in the Balboa Park Celebration Inc. performance audit released by the City of San Diego City Auditor's Office in October 2014: "We found that BPCI inconsistently complied with the section of the Funding Agreement governing procedures for procurement of goods and services from contractors who were engaged to assist in the planning and execution of the Celebration."

**Finding 03:** *A single City contract manager or managing department would have benefited the Balboa Park Celebration.*

**Response: The Mayor and City Council agree with the Grand Jury's finding.**

**Finding 04:** *Special projects of a unique cultural nature, such as the Balboa Park Celebration, would be more successful when their funding sources and schedules are specified prior to the initial start-up.*

**Response: The Mayor and City Council partially disagree with the Grand Jury's finding.**

The intention of the partnership was that BPCI would develop the specifics of the funding mechanisms and sources, rather than establishing them prior to start-up of BPCI's work.

## **Proposed Response to San Diego County Grand Jury Report Entitled BALBOA PARK CELEBRATION LESSONS LEARNED**

The MOU with BPCI contained specific objectives and associated deliverable dates for various phases of the project and required BPCI to develop the funding model, specifically requiring that BPCI develop a strategic plan for raising the necessary funds, a budget for the Celebration, and a business plan for executing the Celebration within the budget. The MOU contained specific dates for the delivery of these documents. Additional safeguards under this type of contract will be considered in the future.

**Finding 05:** *City officials did not adequately monitor the Balboa Park Celebration project.*

**Response:** **The Mayor and City Council partially disagree with the Grand Jury's finding.**

While better monitoring of the project would have been preferred, many converging events and situations interfered with the project schedule; and a number of them related to a changing environment. With changing circumstances, there were adjustments to plans, and the deadlines for deliverables were not always able to be achieved.

**Finding 06:** *Public presentation of the OCA Audit to the full City Council would enhance public exposure to the facts and could stimulate public debate.*

**Response:** **The Mayor and City Council disagree with the Grand Jury's finding.**

The City Auditor's October 2014 performance audit was presented to the City's Audit Committee during a publicly noticed hearing held on October 6, 2014. Both the report and the presentation at Committee received citywide coverage and members of the public provided comments to the Committee. The City Auditor provided a copy of the performance audit to the each Councilmember.

Prior to release of the audit, items related to the termination of the MOU with BPCI were docketed and discussed at the Council Committee on the Environment meeting of April 23, 2014 and the City Council meeting of May 13, 2014. The public had the opportunity to, and did, provide comment on the matter during these public meetings.

Additionally, City responses to the Grand Jury report, "Balboa Park Celebration Lessons Learned," will be docketed for discussion by the City Council at a publicly noticed hearing to be held on July 28, 2015. The public will have additional opportunity to provide comments on the matter at that meeting.

### **RECOMMENDATIONS 15-24 THROUGH 15-28**

Below are the Mayor and City Council's responses to Recommendations 15-24 through 15-28, which were directed to the Mayor and City Council:

**Recommendation 15-24:** *Require the MOU or contract to define all objectives of the project and define the means by which they may be achieved.*

## **Proposed Response to San Diego County Grand Jury Report Entitled BALBOA PARK CELEBRATION LESSONS LEARNED**

**Response: The recommendation has been implemented.**

The City's past and current practice is to define project objectives and standards of performance within contracts. Many contracts require specification of outcomes with the methods or means of achieving such outcomes to be determined by the contractor, within the scope of their expertise.

**Recommendation 15-25:** *Require the MOU or contract to contain an executable project plan, detailed schedules, and funding agreement(s).*

**Response: The recommendation has been implemented.**

The City's past and current practice is to include executable project plans, detailed schedules, and identified public funding within contracts. However, there are contracts which rely on the contractor's development of private funding. In these cases the City may provide public seed money to initiate such efforts.

**Recommendation 15-26:** *Require a single government department be designated with full responsibility and authority for overseeing performance of the contract.*

**Response: The recommendation has been implemented.**

Effective October 13, 2014, the standard language for City agreements includes the designation of a primary point of contact for day-to-day contract administration. This point of contact is normally the lead department. As explained in San Diego Municipal Code section 22.0516, the Purchasing & Contracting Department joins as a point of contact if performance issues arise.

**Recommendation 15-27:** *Require funding sources or committed funding, be secured for any such corporation for the first year of project operation and identify an ongoing funding stream.*

**Response: The recommendation will not be implemented because it is not warranted.**

As noted in finding 04, the intention of the partnership was that BPCI would develop the specifics of the funding mechanisms and sources, rather than establishing them prior to start-up of BPCI's work. The MOU with BPCI contained specific objectives and associated deliverable dates for various phases of the project, and required BPCI to develop the funding model, specifically requiring that BPCI develop a strategic plan for raising the necessary funds, a budget for the Celebration, and a business plan for executing the Celebration within the budget. The MOU contained specific dates for the delivery of these documents. Additional safeguards under this type of contract will be considered in the future.

## **Proposed Response to San Diego County Grand Jury Report Entitled BALBOA PARK CELEBRATION LESSONS LEARNED**

**Recommendation 15-28:** *Enforce all reporting responsibilities to the Council or designated Council Committee provided under the MOU or Contract.*

**Response:** **The recommendation has not yet been implemented, but will be implemented in the future.**

Some MOUs and contracts require staff to periodically report to the Council. This commonly occurs when the Council requires reporting as a condition of contract approval, in response to Council request, or because of the nature of the MOU or contract. Steps will be taken to ensure that periodic updates to the Council consistently occur for MOUs and contracts if these circumstances arise.

### **RECOMMENDATION 15-29**

Below is City Council's response to recommendation 15-29, which was directed solely to the City Council:

**Recommendation 15-29:** *In the interests of transparency and to document lessons learned, docket before the full City Council a formal public presentation of the City Auditor's Audit Report of Balboa Park Celebration, Inc., dated October 1, 2014. In open session, Council members should discuss how major undertakings in the future would proceed with lessons learned in the face of the BPCI experience.*

**Response:** **The recommendation will not be implemented because it is not warranted.**

As stated in finding 06, the City Auditor's October 2014 performance audit was presented to the City's Audit Committee during a publicly noticed hearing held on October 6, 2014. Both the report and the presentation at Committee received citywide coverage and members of the public provided comments to the Committee. The City Auditor provided a copy of the performance audit to the each Councilmember.

Prior to release of the audit, items related to the termination of the MOU with BPCI were docketed and discussed at the Council Committee on the Environment meeting of April 23, 2014 and the City Council meeting of May 13, 2014. The public had the opportunity to, and did, provide comment on the matter during these public meetings.

Additionally, City responses to the Grand Jury report, "Balboa Park Celebration Lessons Learned," will be docketed for discussion by the City Council at a publicly noticed hearing to be held on July 28, 2015. The public will have additional opportunity to provide comments on the matter at that meeting.