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CITY OF SAN DIEGO COUNCIL DOCKET



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David Alvarez • Eighth District

Marti Emerald • Ninth District

**Andrea Tevlin
Independent
Budget Analyst**

**Jan Goldsmith
City Attorney**

**Liz Maland
City Clerk**

Council Chambers, 12th Floor, City Administration Building

Tuesday, December 17, 2013

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, DECEMBER 17, 2013, AT 10:00 AM
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

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, ranging from five business days to two weeks. 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.

NOTE: The public portion of the meeting will begin at 10:00 a.m. The City Council will meet in Closed Session this morning from 9:00 a.m. – 10:00 a.m. Copies of the Closed Session agenda are available in the Office of the City Clerk.

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF COUNCIL MINUTES

The Council Minutes of the following meetings will be approved by Unanimous Consent unless pulled for discussion:

10/21/2013

10/22/2013

PROCLAMATIONS/CEREMONIAL ITEMS

NOTE: The following Proclamations will be presented in Council Chambers and approved by Unanimous Consent unless pulled for discussion.

ITEM-30: Make Change Count Day.

PRESENTED BY COUNCIL PRESIDENT GLORIA:

Proclaiming December 10, 2013, to be "Make Change Count Day" in the City of San Diego.

ITEM-31: Jessica Carscadden Day.

PRESENTED BY COUNCILMEMBER KERSEY:

Proclaiming December 17, 2013, to be "Jessica Carscadden Day" in the City of San Diego.

NOTE: The following Proclamation will NOT be presented in Council Chambers. It will be approved by Unanimous Consent unless pulled for discussion.

ITEM-32: United Domestic Workers of America/AFSCME Local 3930 Day.

COUNCILMEMBER COLE'S AND COUNCILMEMBER EMERALD'S RECOMMENDATION:

Proclaiming December 6, 2013, to be "United Domestic Workers of America/AFSCME Local 3930 Day" in the City of San Diego.

SPECIAL ORDERS OF BUSINESS

None.

ADOPTION AGENDA, CONSENT ITEMS

The Consent items listed beginning on the next page are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (*). 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.

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, of the San Diego Municipal Code, comments are limited to three minutes per speaker, and three minutes per subject regardless of the number of people requesting to speak on that subject

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

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUESTS FOR CONTINUANCE

The Council will consider requests for continuance in the morning or afternoon, based on when the item was noticed to be heard.

COMMUNICATIONS

NOTE: Per Permanent Rule of Council 2.7.1. these items are not subject to debate and must either be docketed, or referred to an appropriate committee or other public agency, or filed.

- ITEM-40: Communication request from Hud Collins regarding Open Government.

- ITEM-41: Communication request from Hud Collins regarding revitalization discussion and suggestions.

- ITEM-42: Communication request from Hud Collins regarding Councilmember contribution disclosure.

- ITEM-43: Communication request from Hud Collins regarding CIP Plan to include Charger Stadium, City Hall, Convention Annex and Balboa Park Improvements and their funding.

- ITEM-44: Communication request from Hud Collins regarding raising City services.

- ITEM-45: Communication request from Hud Collins regarding gun policy and legislation both nationally and in San Diego.

- ITEM-46: Communication request from Hud Collins regarding a plan for homelessness and affordable housing.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:

- * ITEM-60: Contract Amendment to the Consultant Agreement with Lee & Ro, Inc. (L&R), and Contract Amendment to the Construction Management Agreement with Jacobs Project Management Co. (JPM) for the Point Loma Grit Processing Improvements Project. (Peninsula Community Area. District 2.)

ITEM DESCRIPTION:

Council authorization to execute the Sixth Amendment of the Agreement (H031198) with Lee & Ro, Inc. (L&R) for engineering design and construction support services, and execute the First Amendment of the Agreement (H094759) with Jacobs Project Management Co. (JPM) for construction management services for the Point Loma Grit Processing Improvements Project. These Amendments provide additional funds to the existing scope of work. The additional funds will allow L&R to continue with engineering support tasks, and also allow JPM to continue construction management tasks for the new grit processing facility.

STAFF'S RECOMMENDATION:

Introduce the following ordinance in Subitem A; and adopt the resolution in Subitem B:

Subitem-A: (O-2014-64)

Introduction of an Ordinance authorizing the Council President, in his capacity under Charter Section 265(i), or his designee, to execute, for and on behalf of the City, the Sixth Amendment to the Agreement, under the terms and conditions set forth in the Document and for an amount not to exceed \$601,713;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$601,713 from CIP S-00315, Point Loma Grit Processing Improvements, Fund 700009, Metro Sewer CIP for the purpose of executing this Sixth Amendment to the Agreement, contingent upon the City Comptroller first certifying that funds are available.

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

Subitem-B: (R-2014-286)

Authorizing the Council President in his capacity under Charter Section 265(i), or his designee, to execute, for and on behalf of the City, the First Amendment to the Agreement, under the terms and conditions set forth in the Document, and for an amount not to exceed \$762,706;

Authorizing the Chief Financial Officer to appropriate and expend an amount not to exceed \$450,662 from CIP S-00315, Point Loma Grit Processing Improvements, Fund 700009, Metro Sewer CIP, to provide funds for the above First Amendment to the Agreement;

Authorizing the Chief Financial Officer to appropriate and expend an amount not to exceed \$312,044 from CIP S-00315, Point Loma Grit Processing Improvements, Fund 700009, Metro Sewer CIP, to provide funds for the above First Amendment to the Agreement, contingent upon the adoption of the Annual Appropriation Ordinance for the applicable fiscal year, and contingent upon the Chief Financial Officer furnishing one or more certificates demonstrating that the funds for this expenditure are, or will be, on deposit in the City Treasury.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The total cost for professional engineering services with Lee & Ro, Inc., is \$4,512,834. Funding of \$3,911,121 was previously authorized and is available in CIP S-00315, Point Loma Grit Processing Improvements, Fund 700009, Metro Sewer CIP Fund, and funding for the additional \$601,713 is available in CIP S-00315, Point Loma Grit Processing Improvements, Fund 700009, Metro Sewer Utility Fund for this purpose.

The total cost for professional engineering services with Lee & Ro, Inc., is \$4,512,834. The project cost may be reimbursed with current or future financing.

This Agreement is scheduled to be phase funded in FY 2014. No future funding is anticipated for this Agreement.

The total cost for professional construction management services with Jacobs Project Management Co. is \$3,171,746. Funding of \$2,409,040 was previously authorized and is available in CIP S-00315, Point Loma Grit Processing Improvements, Fund 700009, Metro Sewer CIP Fund, and funding for the additional \$762,706 is available in CIP S-00315, Point Loma Grit Processing Improvements, Fund 700009, Metro Sewer Utility Fund for this purpose.

The total cost for professional construction management services with Jacobs Project Management Co. is \$3,171,746. The project cost may be reimbursed with current or future financing. This Agreement is scheduled to be phased funded in FY 2014 and FY 2015. No future funding is anticipated for this Agreement.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- Lee & Ro, Inc.:

Council approved the Agreement on December 5, 2000 (R-294342, \$2,134,362)

- Council approved the following Contract Amendments:

Amendment No. 1, February 13, 2001 (C-10619)

Amendment No. 2, December 9, 2002 (R-297457, \$800,000)

Amendment No. 3, June 20, 2005 (O-19391)

Amendment No. 4, January 18, 2006 (C-13612)

Amendment No. 5, September 10, 2008 (O-19783, \$976,759)

- Jacobs Project Management Co.:

Council approved the Agreement on July 27, 2010 (R-306042, \$2,409,040)

- This action was heard by the Infrastructure Committee on October 28, 2013, and forwarded to the full City Council with a recommendation to approve.

ACTION: Motion by Councilmember Emerald , second by Vice-Chair Cole, to approve.

VOTE: 4-0; Cole-yea, Sherman-yea, Kersey-yea, Emerald-yea.

Heinrichs/Chadwick

Primary Contact\Phone: Mark Nassar\619-533-6600

Secondary Contact\Phone: Iraj Asgharzadeh\619-533-5105

City Attorney Contact: Jung, Jeremy A.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- * ITEM-100: Bid No. 10028480-13-Q - Security Guard Services at Various City Sites.
(Citywide.)

ITEM DESCRIPTION:

This action is to approve the Security Guard Services contract with American Guard Services, Incorporated. The Scope of Services includes providing security guard services to various City Departments.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-370 Cor. Copy) (Rev/ 12/16/13)

Authorizing and directing the Council President, or his designee, to execute, for and on behalf of the City, that certain contract with American Guard Services, Inc., for the provision of security guard services at various City sites as set forth therein for a term of one year, with four (4) one-year options to renew at the sole discretion of the City;
(Rev. 12/16/17)

Authorizing the Chief Financial Officer to expend up to \$1,766,816 for the first year (FY14) of the contract (\$1,189,020 from Fund No. 100000; \$129,153 from Fund No. 200308; \$194,172 from Fund No. 700036; and \$254,471 from Fund No. 200300) for the provision of security guard services pursuant to the contract with American Guard Services, Inc.;

Declaring that contingent upon the adoption of the FY15, FY16, FY17, and FY18 Appropriation Ordinances, and contingent upon certification by the City Comptroller that funds have been appropriated and are available for this purpose, and contingent upon the exercise by the City of the relevant option, the Chief Financial Officer is authorized to expend the following amounts for the provision of security guard services pursuant to the contract with American Guard Services, Inc.: up to \$1,795,085 for Year 2 (FY15), \$1,823,807 for Year 3 (FY16), \$1,852,988 for Year 4 (FY17), and \$1,882,636 for Year 5 (FY18), all from Fund Numbers 100000, 200308, 700036, and 200300.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The initial contract amount is for a not to exceed amount of \$1,766,816 over one (1)- year from the date of award, with four (4) one (1)- year options for a five-year total of \$9.1 million, in accordance with the contract specifications. There are various funding sources depending on locations for the following departments and facilities: Library, City Administration Building, 20th and B Street Operations Yard, Park and Recreation, Rose Canyon Operations Yard, City Operations Building, and City Concourse.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

Barrow/LoMedico

Primary Contact\Phone: Deborah Barrow\619-236-5843

Secondary Contact\Phone: Misty Jones\619-236-5873

City Attorney Contact: Gleeson, Carrie L.

* ITEM-101: Bear Drive Wall - Increase Funding and Award Construction Contract. (Uptown Community Area. District 2.)

ITEM DESCRIPTION:

This action is to authorize the increase of Prop 42 funding in the amount of \$300,000 for the Bear Drive Wall Project and to award the construction contract to the lowest responsible bidder.

The Bear Drive Wall project will stabilize Bear Drive by replacing the existing weakening retaining wall that supports the road and provide a new road through this section of replacement.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2014-340)

Authorizing the Chief Financial Officer to increase the Fiscal Year 2014 Capital Improvement Program Budget in CIP S-10093, Bear Drive Retaining Wall, and to appropriate and expend an amount not to exceed \$300,000 from Fund 200306, Prop 42 Replacement - Transportation Relief, for the purpose of funding the construction of Bear Drive Wall;

Authorizing the Council President, or his designee, in his capacity under Charter Section 265(i), to execute a construction contract with the lowest responsible and reliable bidder for an amount not to exceed \$510,701 contingent upon the Chief Financial Officer furnishing a certificate certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$510,701 from CIP S-10093, Bear Drive Retaining Wall, of which \$39,630 is from Fund No. 600001, State Grant No. 1000160-2008 Prop 1B, and \$471,071 is from Fund 200306, Prop 42 Replacement - Transportation Relief, for the purpose of construction of the project contingent upon the Chief Financial Officer furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Subitem-B: (R-2014-341)

Declaring that the increased funding for and awarding of a construction contract for the Bear Drive Retaining Wall is categorically exempt from California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Sections 15301 and 15302;

Determining that an exception to the exemption as set forth in CEQA Guidelines Section 15300.2, does not apply.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

This action will authorize an additional \$300,000 from Fund No. 200306, Prop 42 Replacement - Transportation Relief for the purpose of fully funding the construction of Bear Drive Retaining Wall. Funding is, or will be, available for the execution of a construction contract not to exceed \$510,701 from CIP S-10093, Bear Drive Retaining Wall, of which \$39,630 is from Fund No. 600001, State Grant No. 1000160-2008 Prop 1B, and \$471,071 is from Fund No. 200306, Prop 42 Replacement - Transportation Relief; contingent upon the Chief Financial Officer furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer. If Council approved, the total project cost would increase to \$706,886.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- On February 4, 2010, Council adopted Resolution R-305567, authorizing the Chief Financial Officer to increase the CIP budget in the amount of \$250,000.

- On November 30, 2012, Council approved Resolution R-307145, authorizing the Chief Financial Officer to accept Proposition 1B Transportation Bond Funding in the amount of \$156,885.95.

- This item was heard at the Infrastructure Committee meeting on October 28, 2013, and forwarded to the full City Council with a recommendation to approve.

ACTION: Motion by Councilmember Emerald, second by Vice-Chair Cole, to approve.

VOTE: 4-0; Cole-yea, Sherman-yea, Kersey-yea, Emerald-yea.

Heinrichs/Chadwick

Primary Contact\Phone: Marnell Gibson\619-533-5213, MS 908A

Secondary Contact\Phone: Jamal Batta\619-533-7482, MS 908A

City Attorney Contact: Gerrity, Ryan P.

- * ITEM-102: First Amendment to an Agreement with Dyett & Bhatia to provide environmental consulting services for the Southeastern San Diego and Encanto Neighborhoods Community Plan Updates. (Southeastern San Diego and Encanto Neighborhoods Community Planning Areas. Districts: 4, 8, and 9.)

ITEM DESCRIPTION:

This action is for approval of a First Amendment to Dyett & Bhatia's original contract totaling \$429,026 to provide planning and environmental consulting services for the Southeastern San Diego and Encanto Neighborhoods Community Plan Updates. Due to the granting agency's contractual deadline which stipulates expending all grant funding by September 2014, amending the existing contract with Dyett & Bhatia to include the Environmental Impact Report (EIR) work would be the most cost effective and efficient means to complete the updates.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2014-354 Cor. Copy) (12/12/13)

Authorizing and directing the Council President, in his capacity under Charter Section 265(i), or his designee, to execute, on the City's behalf, the First Amendment to the "Agreement Between the City of San Diego and Dyett & Bhatia for Southeastern San Diego Community Plan Updates" in the form presented to Council at its December 17, 2013, meeting;

Authorizing the Chief Financial Officer to use the disposition proceeds from Fund 100000 - General Plan Maintenance Funds to fund the City's Southeastern San Diego and Encanto Neighborhoods Community Plan Updates, specifically for the additional environmental analysis for the preparation of a Programmatic Environmental Impact Report in the amount of \$429,026. (12/12/13)

Subitem-B: (R-2014-355)

Declaring that the Project is statutorily exempt from California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15262.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Expenditure of an additional \$429,026 from Fund 100000, amending the amount awarded to Dyett & Bhatia from the amount of \$829,500 to an amount not to exceed \$1,258,526.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On July 31, 2012, the San Diego City Council approved a Consultant Contract (Document No. RR-307640/H125615) with Dyett & Bhatia to provide various planning, transportation and environmental analysis and technical services associated with preparing the community plans and associated technical studies for the Southeastern San Diego and Encanto Neighborhoods Community Plan Updates.

Tomlinson/Chadwick

Primary Contact\Phone: Lara Gates\619-236-6006, MS 413
Secondary Contact\Phone: Karen Bucey\619-533-6404, MS 413
City Attorney Contact: Halsey, Keely M.

* ITEM-103: Proposed Agreement with Macias Gini & O'Connell to Provide Outside Audit Services for Fiscal Years 2014 through 2018.

ITEM DESCRIPTION:

Approve and authorize the Agreement with Macias Gini & O'Connell (MGO) to provide outside audit services for Fiscal Years 2014 through 2018 in an amount not to exceed \$2,625,365 for the five-year period. The not to exceed cost of audit services for each fiscal year is as follows: FY 2014 - \$525,073, FY 2015 - \$525,073, FY 2016 - \$525,073, FY 2017 - \$525,073, FY 2018 - \$525,073, Total - \$2,625,365. Additionally, the resolution will authorize the expenditure of these funds which will be charged to the benefiting funds.

CITY AUDITOR'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-307)

Authorizing and directing the Mayor, or his or her designee, to execute that certain Agreement with Macias Gini & O'Connell (MGO), which incorporates the terms of the Request for Proposal (RFP) and the MGO proposal to provide auditing services to the City with respect to the City's Fiscal Years 2014 through 2018 Comprehensive Annual Financial Statements in a total five-year contract amount not to exceed \$2,625,365 with an amount not to exceed \$525,073 for each fiscal year audit;

Authorizing the Chief Financial Officer to appropriate and expend up to \$525,073 for such auditing services for each Fiscal Year Audit 2014 through 2018 that the Agreement is in effect which is to be charged to the benefiting funds, contingent upon certification of availability of funds by the Chief Financial Officer, and with the Fiscal Year 2015-2018 funding portion additionally contingent upon the adoption of the Fiscal Years 2015, 2016, 2017, and 2018 Appropriation Ordinances respectively for each such Fiscal Year.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Macias Gini & O'Connell (MGO) will be providing outside audit services to the City for Fiscal Years 2014 through 2018 in an amount not to exceed \$2,625,365 for the five-year period. The not to exceed cost of audit services for each fiscal year is as follows:

FY 2014 - \$525,073
FY 2015 - \$525,073
FY 2016 - \$525,073
FY 2017 - \$525,073
FY 2018 - \$525,073

Total - \$2,625,365

Please see document (Benefiting Funds Allocations for FY 2014-2018) for benefiting departments allocated charges per year.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- The Proposed Agreement was presented to the Audit Committee on October 7, 2013.

ACTION: Motion by Committee Member Hebrank, second by Councilmember Sherman, to accept the recommendation and forward to the full Council for approval.

VOTE: 5-0; Faulconer-yea, Sherman-yea, Schreiner-yea, Valdivia-yea, Hebrank-yea.

No changes have been made to the Proposed Agreement since it was presented to the Committee.

Luna

Primary Contact\Phone: Kyle Elser\619-533-3007

Secondary Contact\Phone: Danielle Knighten\619-533-3032

City Attorney Contact: So, Kenneth R.

* ITEM-104: Metropolitan Water District via San Diego County Water Authority Grant for Validating Monitoring Technologies to Ensure Integrity in Potable Reuse Project.

ITEM DESCRIPTION:

This action will adopt a resolution that will authorize the submission of the application, acceptance and expenditure of grant funds from the Metropolitan Water District via San Diego County Water Authority Grant for Validating Monitoring Technologies to Ensure Integrity in Potable Reuse Project.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-284)

Authorizing the Council President, in his capacity under Charter Section 265(i), or his designee, for and on behalf of the City, to submit an application to the Metropolitan Water District via the San Diego County Water Authority, to secure grant funding in the amount of \$150,000 for the Validation of Monitoring Technologies to Ensure Integrity in its Potable Use Project under the terms and conditions set forth in the form of Grant No. 1000417-2014;

Authorizing the Council President, in his capacity under Charter Section 265(i), or his designee, to take all necessary actions to secure grant funding for the above Project;

Authorizing the Chief Financial Officer to accept, appropriate, and expend an amount not to exceed \$150,000 from Fund No. 710001, Grant No. 1000417-2014 for Fiscal Year 2014, contingent on a fully executed Grant Agreement as matching funds for above Project, provided that the Chief Financial Officer furnishes a certificate demonstrating that the funds are, or will be, on deposit in the City Treasury;

Authorizing the Chief Financial Officer to allocate an additional amount not to exceed \$150,000 during the budget cycle for Fiscal Year 2015 to complete the above Project well in advance of the Foundational Actions Funding Program deadline contingent on adoption of the Fiscal Year 2015 Appropriation Ordinance and provided that the Chief Financial Officer furnishes a certificate demonstrating that the funds are, or will be, on deposit in the City Treasury;

Authorizing the Chief Financial Officer to establish a separate interest-bearing account for the grant.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The projected project cost of the Validating Monitoring Technologies to Ensure Integrity in Potable Reuse Project is \$300,000. Grant funds, if secured, will be received in FY14 and FY15, in the amount of \$150,000. If the grant amount is not secured, the project will still move forward as the department has the matching funds required of \$150,000 in the City of San Diego Public Utilities Department Operating Budget for Fiscal Year 2014. The funds will also be allocated during the upcoming budget cycle for Fiscal Year 2015.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

Griffith/LoMedico

Primary Contact\Phone: Wilson Kennedy\ 858-614-4070, MS 901A

Secondary Contact\Phone: Terrell Breaux\858-292-6469, MS 901A

City Attorney Contact: Palmucci, Raymond C.

* ITEM-105: Retention of Colantuono & Levin, PC as Outside Counsel.

ITEM DESCRIPTION:

This action is to retain Colantuono & Levin, PC as Outside Counsel to provide legal representation of the City in connection with litigation against the County of San Diego asserting claims related to the County's calculation of the amount of residual balance distributed to local taxing entities from the Redevelopment Property Tax Trust Fund created for each of the applicable successor agencies. The Agreement will be for an amount not-to-exceed \$300,000.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-357)

Authorizing the retention of Colantuono & Levin, PC (Law Firm) to provide Services to the City in connection with the Claims;

Approving the Services Agreement between the City and the Law Firm included as Attachment A to the Executive Summary accompanying this Resolution;

Authorizing and directing the Council President, in his capacity under Charter Section 265(i), or designee, to execute, on the City's behalf, the Services Agreement with the Law Firm in the form as Exhibit A;

Approving the Fee-Sharing Agreement included as Attachment B to the Executive Summary accompanying this Resolution;

Authorizing and directing the Council President, in his capacity under Charter Section 265(i), or designee, to execute, on the City's behalf, the Fee-Sharing Agreement in the form as Exhibit B;

Authorizing and directing the Chief Financial Officer to appropriate and expend an amount not to exceed \$300,000 in accordance with the Services Agreement and the Fee-Sharing Agreement, utilizing the City's General Fund, contingent upon the City's Chief Financial Officer first furnishing one or more certificates that the funds necessary are, or will be, on deposit with the City Treasurer.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The proposed Services Agreement will involve the City's expenditure of an amount not to exceed \$300,000, including fees and expenses, toward the Law Firm's provision of the Services in connection with the Claims. The City's allocable share of the Law Firm's expenses under the Fee-Sharing Agreement will be paid from the General Fund No. 100000. At this time, it is anticipated that the maximum expenditure amount in the Services Agreement will be sufficient to cover the City's allocable share of the Law Firm's expenses during the entire course of litigation, including any appeals.

The amount in controversy in the litigation will be substantial - at least \$11.1 million attributable to three ROPS time periods - and will continue to grow by several million dollars each time the County Auditor makes a future RPTTF distribution. The County Auditor will continue making RPTTF distributions every six months until the Successor Agency eventually dissolves, which is expected to occur in or about the Year 2040 based on the expected date of retirement of the Former RDA's long-term debt obligations. If the City is successful, the amount of past underpayments will be returned to the City and deposited into the General Fund. Further, the City's future RPTTF allocations will be larger, also benefiting the General Fund by several million dollars every six months.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In Closed Session on September 17, 2013, the Council authorized the City's participation jointly with other Plaintiff Entities in litigation asserting the Claims against the County.

Jones

Primary Contact\City Attorney\Phone: Meghan Ashley Wharton\619-235-5232

Secondary Contact\Phone: Kevin Reisch\619-236-7722

* ITEM-106: Retention of Opper & Varco LLP as outside counsel in the areas of environmental law and hazardous substances liability related to affordable housing assets.

ITEM DESCRIPTION:

Approve a resolution authorizing the City Attorney's Office to retain the Law Firm of Opper & Varco LLP as Outside Counsel to provide legal services to the City of San Diego regarding housing assets of the former Redevelopment Agency of the City of San Diego for compensation up to \$150,000, in the areas of environmental law and hazardous substances liability.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-215)

Authorizing the retention of Opper & Varco LPP as outside counsel for the City on an as-needed basis in the areas of environmental law and hazardous substances liability related to affordable housing assets owned by the City;

Approving the Agreement for legal services on an as-needed basis between the City and Opper & Varco LLP, included as Attachment A to the Executive Summary accompanying this Resolution;

Authorizing and directing the Council President in his capacity under Charter Section 265(i), or his designee, to execute the Agreement for legal services on the City's behalf;

Authorizing and directing the Chief Financial Officer to appropriate, encumber and expend an amount not to exceed \$150,000 from the Low and Moderate Income Housing Asset Fund, designated as Fund No. 200708, to pay for all services provided by Opper & Varco LLP regarding affordable housing matters in accordance with the Agreement, contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The total maximum cost of the “As Needed” Agreement with Opper & Varco is \$150,000 and shall be effective through June 30, 2016. The cost associated with this Request for Outside Counsel by the City as the Successor Housing Entity will be borne by the Low and Moderate Income Housing Asset Fund (Housing Asset Fund), Fund No. 200708. This Fund was created pursuant to Health and Safety Code Section 34176(d) for purposes of depositing any encumbered funds related to the housing assets and retaining any revenues generated from the housing assets.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Pursuant to Resolution No. R-307238, the City Council on May 30, 2012, authorized the City of San Diego, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency) to retain Opper & Varco LLP as outside counsel, which is effective until December 31, 2014. This “As Needed” Agreement for environmental legal services governs the Former RDA’s non-housing assets only and is funded from a different funding source from the Housing Asset Fund.

Lanzafame/Jones

Primary Contact\City Attorney\Phone: Katherine A. Malcolm\619-533-6430, MS 59
City Attorney Contact: Kevin Reisch\619-236-7722, MS 59

* ITEM-107: Settlement of a claim for personal injuries of Shannon Robinson and Dante Harrell, Risk Management File No. 3172.

ITEM DESCRIPTION:

On April 25, 2011, Plaintiffs Shannon Robinson and Dante Harrell filed a complaint alleging personal injury and excessive force. The proposed settlement would resolve all claims brought by the Plaintiffs against the City of San Diego, its agents, and its employees.

CITY ATTORNEYS RECOMMENDATION:

Adopt the following resolution:

(R-2014-369)

Authorizing and directing the Council President, in his capacity under Charter Section 265(i), or his designee, to sign the Settlement Agreement pertaining to this lawsuit;

Authorizing the Mayor, or his designee, to pay the sum of \$450,000 from the Public Liability Fund No. 720045, in settlement of each and every claim for damages, interest, costs, and fees of any type, including attorney fees, against the City of San Diego, its agents and employees, arising from the personal injury claims of Shannon Robinson and Dante Harrell, United States District Court Case No. 11cv0876AJB (WVG);

Authorizing the Chief Financial Officer to appropriate and expend \$450,000 from the Public Liability Fund 720045, contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Comptroller to issue three checks as follows:

- a) \$271,000, made payable to Shannon Robinson, Dante Harrell, and Iredale & Yoo.
- b) \$89,500, made payable to Pacific Life and Annuity Services, Inc.
- c) \$89,500, made payable to BARCO Assignments, Ltd.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Settlement in the amount of \$450,000 will be paid from the Public Liability Fund 720045.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The item was considered in Closed Session on October 29, 2013.

Jones

Primary Contact\Phone: Jennifer Gilman\619-533-5800

City Attorney Contact: Plotkin-Wolff, Stacy J.

* ITEM-108: Excusing Councilmember Marti Emerald from the Infrastructure Committee meeting on November 18, 2013, due to illness.

COUNCILMEMBER EMERALD'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-356)

Excusing Councilmember Marti Emerald from attending the regularly scheduled Infrastructure Committee meeting of November 18, 2013, due to illness.

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

- * ITEM-109: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2014-315)

Declaring a continued state of emergency to persist relative to the escalated discharge of raw sewage from Tijuana, Mexico, pursuant to California Government Code Section 8630;

Authorizing the Council President, in his capacity under Charter Section 265(i), or his designee, to execute all necessary contracts for the diversion, treatment, and disposal of international raw sewage;

Declaring that the measures previously taken in accordance with Resolution Number R-282544 shall continue to have full force and effect.

- * ITEM-110: 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-2014-349)

Declaring a continued state of emergency due to severe shortage of affordable housing in the City of San Diego, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution Number R-296982 shall continue to have full force and effect.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

NOTE: This item may be taken in the morning session if time permits.

ITEM-330: Approve the Rancho Peñasquitos Public Facilities Financing Plan & Facilities Benefit Assessment for FY 2014. (Rancho Peñasquitos Community Plan Area. District 5.)

ITEM DESCRIPTION:

Requesting approval of an update to the Rancho Peñasquitos Public Facilities Financing Plan for Fiscal Year 2014, which sets Facilities Benefit Assessment (FBA) and Development Impact Fees (DIF) for the community and provides funding for community infrastructure.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem A: (R-2014-275)

Adoption of a Resolution by the Council of City of San Diego as follows:

1. That the foregoing recitals are true and correct and incorporated fully herein by this reference.
2. Pursuant to San Diego Municipal Code Section 61.2200 et seq., the Council declares its intention to designate an area of benefit within Rancho Peñasquitos to finance the cost of the public facilities projects identified in the Financing Plan, which is incorporated into this Resolution by reference.
3. The Council shall hold a public hearing to consider the designation of the area of benefit as proposed in this Resolution at 10:00 a.m., or as soon thereafter as the matter may be heard, on January 14, 2014, at the Council Chambers, 12th Floor, City Administration Building, 202 C Street, San Diego, California.
4. Directing the City Clerk to give notice of the public hearing described in paragraph 3 of this Resolution by publishing this Resolution in the San Diego Daily Transcript at least two weeks before the date set forth herein and by mailing copies of this Resolution to each owner of property located within the proposed area of benefit at the addresses shown on the last equalized property tax assessment roll, or as otherwise known to the City Clerk pursuant to San Diego Municipal Code Section 61.2205.

Subitem B: (R-2014-276)

Adoption of a Resolution approving the document titled, “Rancho Peñasquitos Public Facilities Financing Plan and Benefit Assessment, Fiscal Year 2014” (Financing Plan), a copy of which is on file in the Office of the City Clerk.

Authorizing the Chief Financial Officer to modify individual Capital Improvement Program project budgets to reflect the Financing Plan provided funding is available for such action.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Designation of an Area of Benefit Adoption and FBA/DIF will continue to provide a funding source for the public facilities identified in the Rancho Peñasquitos Public Facilities Financing Plan.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was heard at Infrastructure Committee on October 28, 2013.

Tomlinson/Chadwick/csw

Primary Contact\Phone: Charlette Strong Williams\619-533-3683, MS 606F

Secondary Contact\Phone: John Tracanna\619-533-3682, MS 606F

City Attorney Contact: Hilda R. Mendoza

NOTE: This item may be taken in the morning session if time permits.

ITEM-331: Tree Services Contract with West Coast Arborists, Inc. (RFP Number 10038012-14-W) for the Maintenance Assessments Districts Program.

ITEM DESCRIPTION:

This action would authorize a tree service contract with West Coast Arborist, Inc. for the purpose of providing tree services to Park and Recreation Department, Maintenance Assessment Districts (MADs) Program, in an amount not to exceed \$10,498,529 over a period of five years beginning in Fiscal Year 2014 and ending in Fiscal Year 2019.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2014-364)

Authorizing the Mayor, or designee, to award and execute, for and on behalf of the City, a phase-funded contract with West Coast Arborist, Inc., for tree services within the Park and Recreation Maintenance Assessment Districts, having an initial term of one year;

Authorizing the Mayor, or designee, to exercise up to four one-year contract extension options with West Coast Arborist, Inc., contingent upon adoption of subsequent resolutions authorizing the levy of assessments within the Park and Recreation Maintenance Assessment Districts and the Annual Budget Appropriation Ordinance for each applicable fiscal year, and provided that the Chief Financial Officer first furnishes one or more certificates that the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$10,498,529 over five years, corresponding with the Annual Estimated Costs as described in the Cost Summary for Estimated Maintenance Assessment District Tree Costs, identified as Attachment 1 to the Council Action Executive Summary accompanying this Resolution. Authorization and expenditure of such funds shall be for the purpose of funding the contract authorized by this Resolution, contingent upon adoption of subsequent resolutions authorizing the levy of assessments within the Districts and the Annual Budget Appropriation Ordinance for each applicable fiscal year, and provided that the Chief Financial Officer first furnishes one or more certificates that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

Subitem-B: (R-2014-361)

Determining that the Project is categorically exempt from California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301;

Determining that an exception to the exemption as set forth in CEQA Guidelines Section 15300.2, does not apply.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Total contract cost over the maximum term is \$10,498,529. Funding in the amount of \$1,490,380 is available from the various Assessment District Funds (Attachment 1), in Fiscal Year 2014 for the first phase. Additional funds for future phases will be available in future years from the various Park and Recreation MADs contingent upon available reserves, approval to levy future annual assessments, and approval of the annual district budget and Appropriation Ordinance.

Cost estimates for future years include a cost indexing factor of a maximum of 5% annually based on changes to the Consumer Price Index, Living Wage Ordinance and Prevailing Wage Ordinance in accordance with contract specifications. Historically, the actual amount of the allowable cost indexing increase has generally been less than the 5% projection; however, the 5% basis is the most conservative approach and is provided as the maximum indexing amount in the terms of the contract. Additional contingency funds are included in the cost estimate for any unforeseen needs in the district. Any unspent funds will be returned to the district fund balance.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The City Council last authorized approval of updated assessment engineer's reports and annual levy of assessments for the Park and Recreation Maintenance Assessments Districts on July 16, 2013, per Resolution R-308364.

Field/LoMedico

Primary Contact\Phone: Casey Smith\619-685-1325, MS 5D
Secondary Contact\Phone: Rosa Lopez\619-685-1316, MS 5D
City Attorney Contact: Skogen, Daphne Z.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT