

CITY OF SAN DIEGO COUNCIL DOCKET



COUNCIL PRESIDENT

Todd Gloria • Third District

COUNCIL PRESIDENT PRO TEM

Sherri Lightner • First District

COUNCILMEMBERS

Edward Harris • Second District

Myrtle Cole • Fourth District

Mark Kersey • Fifth District

Lorie Zapf • Sixth District

Scott Sherman • Seventh District

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, May 13, 2014

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, MAY 13, 2014, 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:

04/07/2014

04/08/2014

PROCLAMATIONS/CEREMONIAL ITEMS

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

ITEM-30: Bike to Work Month.

PRESENTED BY COUNCIL PRESIDENT GLORIA AND COUNCILMEMBER ZAPF:

Proclaiming May 2014, to be "Bike to Work Month" in the City of San Diego.

ITEM-31: Heather Smith Week.

PRESENTED BY COUNCILMEMBER KERSEY:

Proclaiming May 11, 2014, to May 17, 2014, to be "Heather Smith Week" in the City of San Diego.

ITEM-32: Latino Youth Council Day.

PRESENTED BY COUNCILMEMBER EMERALD:

Proclaiming May 13, 2014, to be "Latino Youth Council Day" in 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-33: Ballast Point Week.

COUNCILMEMBER KERSEY'S RECOMMENDATION:

Proclaiming May 11, 2014, to May 17, 2014, to be "Ballast Point Week" 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.

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

- * ITEM-50: An Ordinance amending Chapter 2, Article 4, Division 8, of the San Diego Municipal Code by amending Section 24.0801 relating to the City Employees' Retirement System.

ITEM DESCRIPTION:

Amend Chapter 2, Article 4, Division 8, of the San Diego Municipal Code by amending Section 24.0801, relating to the City Employees' Retirement System.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/29/2014, Item 50. (Council voted 8-0. Councilmember Emerald not present):

(O-2014-101)

Amending Chapter 2, Article 4, Division 8, of the San Diego Municipal Code by amending Section 24.0801, relating to the City Employees' Retirement System. This Ordinance amends the San Diego Municipal Code Section 24.0801 by adding a paragraph that reads as follows: "All net investment and other actuarial experience gains and losses of the City's Defined Benefit Pension plan shall be included in the calculation of the unfunded actuarial accrued liability (UAAL) and included in the amortized portion of the City's employer contribution to SDCERS."

- * ITEM-51: Second Amendment to Joint-Use Agreement for Richard Henry Dana Center, also known as Dana Middle School to remove a 3.5-acre baseball field from the joint-use area. (Peninsula Community Area. District 2.)

ITEM DESCRIPTION:

Authorizing the Mayor, or his representative, to introduce an ordinance to amend the Joint-Use Agreement between the City and San Diego Unified School District for the Richard Henry Dana Center, aka Dana Middle School, to remove the existing 3.5-acre baseball field from the current joint-use area.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/22/2014, Item 331. (Council voted 9-0):

(O-2014-48 Cor. Copy)

Authorizing and directing the Mayor, or his designee, to execute, a Second Amendment to the Agreement (Richard Henry Dana Center - Dana Middle School).

**ADOPTION AGENDA, CONSENT ITEMS
ORDINANCES TO BE INTRODUCED:**

- * ITEM-52: Carmel Valley Road Enhancement Project - Mitigation and Monitoring Phase - First Amendment to Agreement with Dudek and Associates, Inc., for an Extension of Time. (Torrey Pines Community Area. District 1.)

ITEM DESCRIPTION:

This action is to approve the First Amendment to the Agreement that will extend the contract time at no cost to City, in order for the City to pay the final invoice to Dudek and Associates. Carmel Valley Road is a two (2)-lane collector that runs parallel to Los Peñasquitos Lagoon. The project provided for bicycle lanes, sidewalk, road and storm water improvements between Via Mar Valle and Portofino Drive and was completed in 2008. Subsequently, the City contracted with Dudek and Associates, Inc., to monitor and report the five (5)-year environmental mitigation measures required by the project permit.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2014-105)

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute a First Amendment to the Agreement with Dudek and Associates, Inc., for the purpose of extending the contract completion date by 26 months, to December 31, 2015, to provide services for the Mitigation and Monitoring Phase for WBS S-00859 (Legacy CIP 52-517), Carmel Valley Road Enhancement Project, at no additional cost to the City;

Authorizing the expenditure of an amount not to exceed \$150,196 from Fund 400169, TransNet, WBS S-00859 (Legacy CIP 52-517) for the purpose of providing funds for the above-referenced Project;

Authorizing the Chief Financial Officer, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

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

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The total project amount is \$9,094,641; the current total appropriation for the Mitigation and Monitoring Phase is \$150,196. This amount is available from Fund 400169, TransNet, WBS S-00859 (Legacy CIP 52-517). The First Amendment is for an extension of time only. The cost for Mitigation and Monitoring is included in the total project cost. No fiscal impact only extension of contract time.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Consultant Agreement was approved on September 11, 2008, via Resolution No. R-304036.

Nagelvoort/Heinrichs

Primary Contact\Phone: Marnell Gibson\619-533-5213, MS 908A
Secondary Contact\Phone: Abi Palaseyed\619-533-4654, MS 908A
City Attorney Contact: Gerrity, Ryan P.

- * ITEM-53: Fourth Amendment to As-Needed Agreement between the City of San Diego and Somach, Simmons & Dunn for legal services related to the Long-Range Water Resources Plan – water resource protection and development.

ITEM DESCRIPTION:

Authorize the Mayor, or his designee, to execute a Fourth Amendment to the As-Needed Agreement with Somach, Simmons & Dunn, for an additional two years and an additional amount of \$350,000 for interstate water rights negotiations, and long-range water resource protection and development.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2014-61 Cor. Copy)

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Fourth Amendment to the Agreement with Somach, Simmons & Dunn for as-needed assistance with the City's long-range water resources planning, under the terms and conditions set forth in the Fourth Amendment;

Authorizing the Chief Financial Officer to appropriate and expend an amount not to exceed \$350,000 from Water Utility Operating Fund No. 700011, solely and exclusively, to provide funds for the above Fourth Amendment, contingent on adoption of the Fiscal Year 2015 Appropriation Ordinance and funds for this purpose being included in the budget, and provided that the Chief Financial Officer furnishes one or more certificates that the funds for this expenditure are, or will be, on deposit in the City Treasury.

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

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The Fourth Amendment to the As-Needed Agreement with Somach, Simmons & Dunn, adds \$350,000 for a total contract amount of \$1,450,000. Funds will be available in Water Utility Operating Fund 700011, for the purpose of funding this Fourth Amendment to the As-Needed Agreement with Somach, Simmons & Dunn through FY 2014 and continuing this expenditure for an additional two years into, FY 2015 and FY 2016, contingent upon the approval of the FY 2015 and FY 2016 Appropriation Ordinances, providing that the Chief Financial Officer first furnishes one or more certificates certifying that the funds necessary for the expenditures are, or will be, on deposit with the City Treasurer.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- In December 2002, the City of San Diego (City) adopted the Long-Range Water Resources Plan (LRWRP) by Resolution R-2003-657.

- In December 2013, the City of San Diego (City) adopted the 2012 Long-Range Water Resources Plan by Resolutions R-2014-11 and R-2013-12.

- The initial Agreement between City and Somach, Simmons & Dunn was executed on April 20, 2004 for \$250,000.

- On May 26, 2009, the Second Amendment to the Agreement was approved by the City Council in O-19866, which added \$200,000 and five years to the Original Agreement amount.

- On May 11, 2011, the Third Amendment to the Agreement was approved by the City Council in O-20046, which added \$650,000 to the Original Agreement amount.

Lanzafame/Bamberg

Primary Contact\City Attorney\Phone: Ray C. Palmucci\619-236-7725, MS 59
Secondary Contact\Phone: Marsi A. Steirer\619-533-4112, MS 906

- * ITEM-54: North Torrey Pines Road Bridge/Los Peñasquitos Creek Project - Seventh Amendment to Agreement with Helix Environmental, Inc. (Torrey Pines Community Area. District 1.)

ITEM DESCRIPTION:

Authorizing the execution of a Seventh Amendment with Helix Environmental, Inc., for professional environmental services related to providing a complete set of design plans and specifications (contract documents), including environmental approval for access to the North Torrey Pines beach for both pedestrians and emergency vehicles to the most practicable extent as possible within existing site constraints.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2014-104)

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City, the Seventh Amendment to an Agreement with Helix Environmental, Inc., for the purpose of providing professional services for the North Torrey Pines Road Bridge over Los Peñasquitos Creek Project, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$44,920 from CIP S-00935, North Torrey Pines Road Bridge/Los Peñasquitos Creek Project, Fund 400169, TransNet, for the purpose of executing this Agreement for the above referenced Project;

Authorizing the Chief Financial Officer, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

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

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

A total of \$44,920 is needed to fund this Seventh Amendment. Funds will be available from CIP S-00935, North Torrey Pines Road Bridge over Los Peñasquitos Lagoon, from Fund No. 400169, TransNet.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- Resolution No. R-281449 on February 8, 1993, approved Agreement.
- Resolution No. R-284327 on July 25, 1994, approved First Amendment.
- Resolution No. R-292529 on December 6, 1999, certified MND LDR No. 98-0335.
- Resolution No. R-298130 on June 30, 2003, Approving Plans and Specifications; Authorizing Award.
- Ordinance No. O-19315 on September 7, 2004, approved Fifth Amendment.
- Ordinance No. O-20101 on October 18, 2011, approved Sixth Amendment.

Nagelvoort/Heinrichs

Primary Contact\Phone: Marnell Gibson\619-533-5213, MS 908A
Secondary Contact\Phone: Abi Palaseyed\619-533-4654, MS 908A
City Attorney Contact: Kohut, Ryan P.

- * ITEM-55: Memorandum of Understanding between the City of San Diego and San Diego City Employees' Retirement System (SDCERS) for Management and Coordination of Retiree Health Benefits.

ITEM DESCRIPTION:

Memorandum of Understanding between the City of San Diego and San Diego City Employees' Retirement System (SDCERS) to manage and coordinate retiree health benefits for the City's retired employees.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2014-21)

Introduction of an Ordinance approving the Memorandum of Understanding (MOU) between the City and San Diego City Employees' Retirement System (SDCERS), regarding SDCERS' processing of the City's retiree health and post-employment health benefit programs, and the enrollment of retirees into City-sponsored health insurance plans, under the terms set forth in the MOU;

Authorizing the Mayor, or his designee, to sign the MOU.

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

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The estimated annual expense of \$526,166 is for staff cost of administering retiree health benefits. Approval of expense was included in the Annual FY 2014 Budget.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- The item was heard on October 9, 2013, at the Rules and Economic Development Committee. The Committee requested the item be returned to the Committee with additional information. Additional information was provided in the City Attorney's report dated November 15, 2013, and in the memo from the Risk Management Department dated February 14, 2014.

- The item was heard at the Budget and Government Efficiency Committee on February 26, 2014.

ACTION: Motion by Council President Pro Tem Lightner, second by Councilmember Faulconer, to forward to full City Council with an amendment to staff's recommendation. The Committee directed the City Attorney and San Diego City Employees' Retirement System (SDCERS') counsel to amend the Memorandum of Understanding (MOU) before it comes to full City Council to clarify that the City is agreeing to indemnify SDCERS for liability arising out of the actions of City employees working at SDCERS.

VOTE: 5-0; Gloria-yea, Alvarez-yea, Lightner-yea, Faulconer-yea, Kersey-yea.

- The revised MOU dated April 18, 2014, reflects the requested revisions.

Montoya/Chadwick

Primary Contact\Phone: Estella Montoya\619-533-6107, MS 51B

City Attorney Contact: Story Parks, Roxanne

**ADOPTION AGENDA, CONSENT ITEMS
RESOLUTIONS:**

- * ITEM-100: Fourth Amendment to Agreement with Aviat US, Inc., for upgrading the wireless microwave networks and infrastructure that support Public Safety and regional interoperability.

ITEM DESCRIPTION:

This is a request for Council to authorize execution of Amendment No. 4 to Contract No. 10019047-12-Z with Aviat US, Inc. The Amendment will increase the not to exceed amount by \$2,712,759 (from \$950,000 to \$3,662,759) which will allow work to continue on upgrading the wireless microwave networks that support Public Safety and regional interoperability. Amendment No. 4 will replace end-of-life microwave radio terminals, 48-volt emergency battery systems, fiber optic cabling, and network management equipment located at regional and Citywide communication sites. This Amendment will also extend the term of the Agreement until October 4, 2016.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-553)

Authorizing the Mayor, or his designee, to execute a Fourth Amendment to the Agreement with Aviat US, Inc., to increase the contract amount by \$2,712,759 for a total not to exceed amount of \$3,662,759;

Authorizing the Chief Financial Officer to expend an additional not to exceed amount of \$212,759 contingent upon the City Comptroller certifying that the funds necessary for expenditure are available in Grant No. 1000352-2011, Fund No. 600000, Cost Center No. 191200011, IO AA1000352-11.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

- \$212,759 of this request is grant funded.
- \$2,500,000 of this request will be debt financed through the Master Lease Agreement with Banc of America Public Capital Corp. (O-20332).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- October 17, 2008, Resolution R-304213, Council authorized the execution of the Fiscal Year 2008 Homeland Security Grant Program which included the Regional Interoperable Radio Communications Projects.
- July 22, 2010, Resolution R-306005, Council authorized the City to accept and expend a federal grant in the amount of \$3.7 million for participation in the Border Interoperability Demonstration Project.
- May 16, 2011, Resolution R-306793, Council authorized an Agreement with Motorola Solutions, Inc., for public safety communication systems upgrades contingent upon available funding.
- December 24, 2013, Ordinance O-20332, Council authorized the City to execute a Master Lease Agreement with Banc of America Public Capital Corp. for the purpose of financing the acquisition of essential vehicles and equipment.
- April 16, 2014, this item was heard at the Budget and Government Efficiency Committee meeting and forwarded to the full City Council.

ACTION: Motion by Councilmember Kersey, second by Council President Pro Tem Lightner, to recommend approval of staff's recommendation and forward the item to full City Council.

VOTE: 3-0-2; Gloria-yea, Alvarez-absent, Lightner-yea, Kersey-yea, Zapf-absent.

Leveroni/Sturak

Primary Contact\Phone: Mario Sierra\619-533-3637, MS 658B

Secondary Contact\Phone: Huw Williams\619-525-8582, MS 23

City Attorney Contact: Brazier, Noah J.

* ITEM-101: Acceptance of Funds for the Redesign of Saturn Boulevard and Rimbey Avenue Sidewalk Improvement Project. (Otay Mesa-Nestor Community Area. District 8.)

ITEM DESCRIPTION:

Council authorization to accept \$40,000 from Pacific Bell Telephone Company as a reimbursement to redesign the Saturn Boulevard and Rimbey Avenue Sidewalk Improvement Project due to their utilities conflict. This action would accept the funds into the project for this purpose.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2014-573)

Authorizing the Mayor, or his designee, to enter into an Agreement with Pacific Bell Telephone Company Utilities for the purpose of redesigning the project to accommodate Pacific Bell Telephone Company Utilities in A-IK.00001, New Walkways (CIP B-10145, Saturn Boulevard and Rimbey Avenue Sidewalk Improvement Project);

Authorizing the Chief Financial Officer to accept \$40,000 into Fund 400264, Private and Others Contributions, from Pacific Bell Telephone Company Utilities;

Authorizing the Chief Financial Officer to increase the Capital Improvements Program Budget in A-IK.00001, New Walkways (CIP B-10145, Saturn Boulevard and Rimbey Avenue Sidewalk Improvement Project), and to appropriate and expend \$40,000 from Fund 400264, Private and Others Contributions, for the purpose of redesigning the Project to accommodate existing telephone utilities.

Subitem-B: (R-2014-574)

Declaring that acceptance of funds for the Redesign of Saturn Boulevard and Rimbey Avenue Sidewalk Improvement Project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304;

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

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Acceptance of \$40,000 into Fund 400264, Private and Others Contributions, increase the Capital Improvements Program Budget in A-IK.00001, New Walkways (CIP B-10145, Saturn Boulevard and Rimbey Avenue Sidewalk Improvement Project) and to appropriate and expend \$40,000 from Fund 400264, Private and Others Contributions.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

Nagelvoort/Heinrichs

Primary Contact\Phone: Marnell Gibson\619-533-5213, MS 908A
Secondary Contact\Phone: Abi Palaseyed\619-533-4654, MS 908A
City Attorney Contact: Gerrity, Ryan P.

* ITEM-102: Authorization to execute an Agreement for Legal Services between the City of San Diego and Colantuono & Levin, P.C.

ITEM DESCRIPTION:

Approval of the Agreement for Legal Services between the City of San Diego and Colantuono & Levin, P.C. in an amount not to exceed \$500,000.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-592)

Authorizing the retention of the Law Firm of Colantuono & Levin, P.C. (Law Firm) by and through the Agreement;

Authorizing the Mayor, or his designee, to execute the Agreement, Exhibit "A";

Authorizing the Chief Financial Officer to appropriate and expend an amount not to exceed a total of \$500,000 for the services to be provided by the Law Firm, under the terms and conditions of the Agreement from the Public Liability Fund.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Funding for this action not to exceed \$500,000 is available in the Public Liability Fund 720045.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

Bamberg

Primary Contact\City Attorney\Phone: Carmen A. Brock\619-236-7726, MS 59

- * ITEM-103: Extend the contract with the Law Firm of Sullivan Hill Lewin Rez & Engel for continuing legal work in *Janet Wood v. City of San Diego*, SDSC Case No. 37-2010-00105217-CU-CR-CTL.

ITEM DESCRIPTION:

The Law Firm of Sullivan Hill Lewin Rez & Engel was retained in 2002 to represent the City in this litigation with an authorization of \$350,000 to be paid. Over the past 12 years, three different lawsuits have been filed in two different court rooms and the case has been up on appeal twice and is expected to go up on appeal again. Periodically over the years, an increase in the maximum amount of fees has been required. That time has come again and the City Attorney's Office requests that the Council grant the Chief Financial Officer authority to expend an additional \$350,000 from the Public Liability Fund for coverage of additional fees incurred by the Sullivan firm.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-473)

Authorizing the Mayor, or his designee, to expend an additional \$350,000 for Law Offices of Sullivan Hill Lewin Rez & Engel, to provide legal services, including costs incurred, defending and prosecuting demurrers and motions for summary judgement and, depending upon results, trial and/or appeal in the case *Janet Wood v. City of San Diego*, San Diego Superior Court Case No. 37-2010-00105217-CU-CR-CTL;

Authorizing the Chief Financial Officer to appropriate and expend an amount not to exceed \$350,000 from the Public Liability Fund No. 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.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The City has been paying the Sullivan firm at its agreed upon hourly rates (as they were in 2002). In the past 12 years, a total of \$1,400,000 has been paid. This supplemental request has a "not-to-exceed" amount of \$350,000 which will be paid from the Public Liability Fund 720045.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In Closed Session, in 2002, the City Council approved retention. Periodically over the last 12 years it has been briefed on the status of the case, approved additional sums, and evaluated various settlement proposals and defense strategies.

Bamberg

Primary Contact\City Attorney Contact\Phone: Joe Cordileone\619-533-5854, MS 59

- * ITEM-104: Community Projects, Programs and Services Funding Allocation to Heart and Hands Working Together for providing food and clothing (including new pairs of shoes to families). (District 8.)

ITEM DESCRIPTION:

Approval of the funding allocation from Council District 8, along with authorization from the City Council are requested to allow the Mayor, or his designee, to enter into an Agreement with Heart and Hands Working Together for an amount not to exceed \$3,800, for providing food and clothing (including new pairs of shoes to families).

COUNCILMEMBER ALVAREZ'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-674)

Declaring that the allocation described herein is made for a public purpose;

Waiving Council Policy 100-06, 3(g), which provides: "An organization may not apply to receive funding for an event or program which has already occurred, nor any capital improvement, goods, supplies, materials, or equipment which have already been purchased;"

Authorizing and directing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Heart and Hands Working Together in an amount not to exceed \$3,800 for the project described herein, under the terms and conditions set forth in the Agreement;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$3,800 from the Community Projects, Programs and Services Budget Fund No. 100000, Cost Center 1108110008, to provide funds for the above-referenced 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 in the City Treasury.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The \$3,800 in Council Community Projects, Programs, and Services Funding from Fund No. 100000, Cost Center No. 1108110008, will be used for providing food and clothing (including new pairs of shoes to families).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

Schmidt

Primary Contact\Phone: Melina Meza\619-236-6688
Secondary Contact\Phone: Lori Witzel\619-236-6442
City Attorney Contact: Bradley, Catherine M.

- * ITEM-105: Community Projects, Programs and Services Funding Allocation to the Thomas Jefferson School of Law for the Center for Solo Practitioners' Community Law Initiative for District 8. (District 8.)

ITEM DESCRIPTION:

Approval of the funding allocation from Council District 8, along with authorization from the City Council are requested to allow the Mayor, or his designee, to enter into an Agreement with the Thomas Jefferson School of Law for an amount not to exceed \$7,000, for the Center for Solo Practitioners' Community Law Initiative for District 8.

COUNCILMEMBER ALVAREZ'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-672)

Declaring that the allocation described herein is made for a public purpose;

Waiving Council Policy 100-06, 3(g), which provides: "An organization may not apply to receive funding for an event or program which has already occurred, nor any capital improvement, goods, supplies, materials, or equipment which have already been purchased;"

Authorizing and directing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Thomas Jefferson School of Law for the Center for Solo Practitioners, in an amount not to exceed \$7,000 for the project described herein, under the terms and conditions set forth in the Agreement;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$7,000 from the Community Projects, Programs and Services Budget Fund No. 100000, Cost Center 1108110008, to provide funds for the above-referenced 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 in the City Treasury.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The \$7,000 in Council Community Projects, Programs, and Services Funding from Fund No. 100000, Cost Center No. 1108110008, will be used for the Center for Solo Practitioners' Community Law Initiative for District 8.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

Schmidt

Primary Contact\Phone: Melina Meza\619-236-6688
Secondary Contact\Phone: Lori Witzel\619-236-6442
City Attorney Contact: Dugard, Prescilla

* ITEM-106: Appointments to the Utility Undergrounding Advisory Committee.

ITEM DESCRIPTION:

Appoint seven members to the Utility Undergrounding Advisory Committee.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2014-656)

Council confirmation of the following appointments by the Council President to the Utility Undergrounding Advisory Committee, to serve in compliance with Charter Section 43(b) until the Committee completes the objectives for which it was created:

- David Moty (Talmadge, District 9)
- Bobby Johnson (Casa de Oro)
- Joe LaCava (La Jolla, District 1)
- Charles Angyl (Mission Hills, District 3)
- John Ready (Mission Beach, District 2)
- Vicki Granowitz (North Park, District 3)
- Tom Hebrank (Kensington, District 9)

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointments, it is determined that Bobby Johnson is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Committee; therefore, a conscious exception to Council Policy 000-13 is hereby declared.

- * ITEM-107: Excusing Councilmember Marti Emerald from the morning session of the City Council meeting of Tuesday, April 22, 2014, due to illness and the Environment Committee meeting of Wednesday, April 23, 2014, due to attendance at the League of Cities.

COUNCILMEMBER EMERALD'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-668)

Excusing Councilmember Marti Emerald from attending the morning session of the regularly scheduled Council meeting of April 22, 2014, due to illness;

Excusing Councilmember Marti Emerald from attending the regularly scheduled meeting of the Committee on the Environment on April 23, 2014, due to her attendance at a California League of Cities meeting.

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

- * ITEM-108: Excusing Councilmember David Alvarez from attending the regularly scheduled City Council and Committee meetings of March 19, 24, and 25, 2014; April 8, 9, 15, and 16, 2014; due to paternal leave.

COUNCILMEMBER ALVAREZ'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-669)

Excusing Councilmember David Alvarez from attending the regularly scheduled City Council and Committee meetings of March 19, 24, and 25, 2014; April 8, 9, 15, and 16, 2014; due to paternal leave.

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

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

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

ITEM-330: FY 2015 San Diego Tourism Marketing District Report of Activities. (Citywide.)

ITEM DESCRIPTION:

Approve the FY 2015 Report of Activities for the San Diego Tourism Marketing District with an anticipated budget total of \$46,211,911 and authorize the Chief Financial Officer (CFO) to appropriate and expend the funds (contingent on availability) less any retention for a litigation reserve. Authorize the expenditure of funds from FY 2014 to process any payments for FY 2014 activities anticipated to be received in FY 2015.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-664)

Approving the FY 2015 Report of Activities for the San Diego Tourism Marketing District with an anticipated budget total of \$46,211,911. This budget figure includes anticipated Tourism Marketing District (TMD) assessments for FY 2015 of \$31,294,040, projected carryover of \$14,887,871 from FY 2014, and projected TMD interest and penalties to be accrued in FY 2015 of \$30,000;

Authorizing the Chief Financial Officer, in accordance with the FY 2015 Report of Activities, to appropriate and expend for FY 2015 TMD activities a total of \$46,211,911, which includes anticipated TMD assessments for FY 2015 of \$31,294,040, projected carryover of \$14,887,871 from FY 2014, and projected TMD interest and penalties to be accrued in FY 2015 of \$30,000. Such appropriation and expenditure is contingent upon the Chief Financial Officer certifying that the funds necessary for expenditure are, or will be, on deposit in the City Treasury and subject to the reserves requirement of the Second Amendment;

Authorizing the Chief Financial Officer to appropriate and expend the TMD Fund Balance and TMD Interest Fund Balance from FY 2014 at year-end closing (less the estimated TMD assessments and TMD interest carryover of \$14,887,871 to be included with the FY 2015 Budget) for FY 2014 expenditures consistent with the approved FY 2014 Report of Activities anticipated to be processed in FY 2015. Such appropriation and expenditure is contingent upon the Chief Financial Officer certifying that the funds necessary for expenditure are, or will be, on deposit in the City Treasury and subject to the reserves requirement of the Second Amendment.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Pursuant to the renewed Tourism Marketing District (TMD) Resolution R-307843, approximately \$46.2M of TMD Assessments, interest and fund balance is projected to be available in FY 2015. These funds will be disbursed to the San Diego Tourism Marketing District (SDTMD) to implement the TMD Management Plan for FY 2015, except for those funds held: for Opportunity/Catastrophe; to recover City administration costs; and for potential claims as provided for in the Operating Agreement as amended. Depending on the timing and outcome of litigation there may be no fiscal impact to the General Fund however a reserve is being built to provide funding in the case of an adverse outcome.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- The TMD was renewed by Council on November 26, 2012, by Resolution R-307843.
- Council approved a five-year TMD Agreement by Resolutions R-307844, R-308062 and then amended that Agreement by Resolutions R-308065 (April 23, 2013) and R-308588 (December 9, 2013).
- The FY 2014 Report of Activities was approved by Council on June 24, 2013.
- This item was heard at the Budget and Government Efficiency Committee meeting on April 16, 2014.

ACTION: Motion by Councilmember Kersey, second by Council President Pro Tem Lightner, to recommend approval of staff's recommendation and forward the item to full City Council.

VOTE: 3-0-2; Gloria-yea, Alvarez-absent, Lightner-yea, Kersey-yea, Zapf-absent.

Fulton/LoMedico

Primary Contact\Phone: Meredith Dibden Brown\619-236-6485

City Attorney Contact: Wander, Adam R.

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

ITEM-331: Advance Funding for Convention Center Phase III Expansion Geotechnical Investigation and Traffic Study. (Centre City Community Area. District 3.)

ITEM DESCRIPTION:

This action is to increase the Convention Center Phase III Expansion Project Budget by \$500,000 for the purpose of conducting a geotechnical investigation and a traffic study. The action will advance funds from the General Fund; these funds will be returned to the General Fund when bond proceeds are received.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-657)

Authorizing the Chief Financial Officer, in accordance with the Annual Appropriation Ordinance, to amend the Fiscal Year 2014 Capital Improvements Program Budget, to increase CIP S-12022, Convention Center Expansion Phase III Project, by the amount of \$500,000;

Authorizing the Chief Financial Officer to transfer \$500,000 from the General Fund, Fund No. 100000, Citywide Program Expenses, Department 9912, to Fund No. 400265, General Fund Contributions to the CIP;

Authorizing the Chief Financial Officer to appropriate and expend an amount not to exceed \$500,000 from Fund No. 400265, General Fund Contributions to the CIP, for the purposes of geotechnical analysis and traffic studies associated with the Convention Center Expansion Phase III Project;

Authorizing the Chief Financial Officer to transfer all expenses incurred in CIP S-12022, Convention Center Expansion Phase III Project, Fund No. 400265, General Fund Contributions to the CIP, to a City Council approved bond funding source, and to de-appropriate and return the \$500,000 of Fund No. 400265, General Fund Contributions to the CIP, to Fund No. 100000, General Fund, and to re-appropriate that \$500,000 in the General Fund Appropriated Reserve, contingent on approval and issuance of the bonds and the certification of the City Comptroller that the bond proceeds are available.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

This item authorizes an additional \$500,000 in expenditures for a Geotechnical investigation. The \$500,000 is available in the General Fund Citywide Program Expenditures Department and being transferred to WBS No. S-12022, San Diego Convention Center Expansion Phase III, as part of this action to fund this expenditure request. The \$500,000 from the General Fund will be returned to the General Fund when bond proceeds are received.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- On August 2, 2011, per R-306988, the City Council approved the assignment of the Agreement between the San Diego Convention Center Corporation and Fentress Architects, to the City of San Diego.
- On May 8, 2012, per R-307416-3, the City Council approved the Second Amendment to the Agreement with Fentress Architects for a \$120,000 reduction in reimbursable expenses.
- On October 1, 2012, per R-2013-157, the City Council approved a Third Amendment to the Agreement with Fentress Architects for architectural design services in the amount of \$650,000. In addition, the City Council approved the establishment of contract funding phases and awarded the phase funded contract to Clark/Hunt for the Convention Center Phase III Expansion pre-construction Services, Construction Management at Risk, and approved \$600,000 for pre-construction services for this contract.

Nagelvoort/Heinrichs

Primary Contact\Phone: Kris Shackelford\619-533-3004

Secondary Contact\Phone: Darren Greenhalgh\619-533-3616

City Attorney Contact: Zeleny, Thomas C.

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

ITEM-332: Ratification of Contract with T&T Janitorial, Inc. (Bid Number 10021966-12-L) for Downtown Restroom Maintenance. (Downtown Community Area. District 3.)

ITEM DESCRIPTION:

This action would authorize the continuation of the contract with T&T Janitorial, Inc. (Bid Number 10021966-12-L) for the purpose of providing twenty-four hour janitorial maintenance services for the Civic Center comfort station and the Gaslamp Square comfort station in an amount not to exceed \$1,510,000 over a period of five years beginning December 31, 2011, and ending December 31, 2016.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-670)

Ratifying the Contract between the City of San Diego and T&T Janitorial, Inc., to provide twenty-four hour janitorial maintenance services for the Civic Center and Gaslamp Square comfort stations (Bid Number 10021966-12-L), to exceed \$1,000,000;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$314,254 in Fiscal Year 2015, from the General Fund (100000), Park and Recreation Department (1714), contingent upon adoption of the Fiscal Year 2015 Annual Budget Appropriation Ordinance;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$329,967 in Fiscal Year 2016, from the General Fund (100000), Park and Recreation Department (1714), contingent upon adoption of the Fiscal Year 2016 Annual Budget Appropriation Ordinance;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$164,984 in Fiscal Year 2017, from the General Fund (100000), Park and Recreation Department (1714), contingent upon adoption of the Fiscal Year 2017 Annual Budget Appropriation Ordinance.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The total five-year cost, beginning December 31, 2011, and ending December 31, 2016, of this janitorial service contract is projected in an amount not to exceed \$1,510,000. This cost is funded by the Park and Recreation Department's General Fund Annual Operating Budget. Funding in the amount of \$299,290 is available in Fiscal Year 2014. Additional funds for future expenditures are contingent upon 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 CPI and LWO in accordance with contract specifications. This factor was applied in the cost projection for Fiscal Years 2015 through 2016. Historically, the actual amount of the allowable cost indexing increase has generally been less than the 5% projection; however, the 5% cost indexing factor is the most conservative approach and is provided as the maximum indexing amount in the terms of the contracts. This 5% factor also includes some funding for additional contingency funds for any unforeseen service needs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was heard at the Budget and Government Efficiency Committee meeting on March 19, 2014.

ACTION: Motion by Council President Pro Tem Lightner, second by Council President Gloria, to recommend approval of staff's recommendation and forward the item to full City Council. Additionally, Committee Members directed staff to comment on potentially amending the contract for maintenance of the Portland Loos when the item comes to Council.

VOTE: 3-0-1; Gloria-yea, Alvarez-absent, Lightner-yea, Kersey-yea.

The issue will be addressed during staff presentation to City Council.

Field/Chadwick

Primary Contact\Phone: Kathy Ruiz\619-221-8910, MS 32

Secondary Contact\Phone: Shelly Stowell\619-221-8917, MS 32

City Attorney Contact: Bevier, Debra J.

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

ITEM-333: Termination Agreement Between the City of San Diego and Balboa Park Celebration, Inc. (Citywide. District 3.)

ITEM DESCRIPTION:

This action authorizes acceptance of the Termination Agreement between the City of San Diego and Balboa Park Celebration, Inc. (BPCI). Through the proposed Termination Agreement, the City and BPCI agree to end BPCI's role as the official event organizer for the Celebration, and end BPCI's involvement in the all aspects of the Celebration.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2014-586)

Authorizing and directing the Mayor, or his designee, to execute a Termination Agreement for the Balboa Park Celebration, Inc., Memorandum of Understanding (MOU) and Funding Agreement.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Specifically, the Memorandum of Understanding (MOU) provides that Balboa Park Celebration, Inc. (BPCI) is financially responsible for the Celebration, events conducted in connection with the Celebration, and all debts incurred and obligations entered into by BPCI. The City is not accountable or liable for any monetary or other losses incurred by BPCI as a result of or related to the MOU.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Various updates to the Committee on the Environment and its predecessor, the Natural Resources and Culture Committee.

Wormser/LoMedico

Primary Contact\Phone: Carolyn Wormser\619-685-1332, MS 56A

Secondary Contact\Phone: Stacey LoMedico\619-533-4348, MS 9A

City Attorney Contact: Gleeson, Carrie L.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT