

# CITY OF SAN DIEGO COUNCIL DOCKET



## COUNCIL PRESIDENT

**Sherrí Lightner • First District**

## COUNCIL PRESIDENT PRO TEM

**Marti Emerald • Ninth District**

## COUNCILMEMBERS

**Lorie Zapf • Second District**

**Todd Gloria • Third District**

**Myrtle Cole • Fourth District**

**Mark Kersey • Fifth District**

**Chris Cate • Sixth District**

**Scott Sherman • Seventh District**

**David Alvarez • Eighth District**

**Andrea Tevlin  
Independent  
Budget Analyst**

**Jan Goldsmith  
City Attorney**

**Liz Maland  
City Clerk**

**Council Chambers, 12<sup>th</sup> Floor, City Administration Building**

**Tuesday, February 24, 2015**

**AGENDA FOR THE  
REGULAR COUNCIL MEETING OF  
TUESDAY, FEBRUARY 24, 2015, AT 10:00 AM  
CITY ADMINISTRATION BUILDING  
COUNCIL CHAMBERS – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

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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@sanidiego.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.

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

**NOTE: The 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.**

**OTHER LEGISLATIVE MEETINGS**

The **SAN DIEGO HOUSING AUTHORITY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Housing Authority Secretary at (619) 578-7564. Internet access to the agenda is available at:  
<http://www.sdhc.org/Media-Center/SDHC-Meetings/Housing-Authority-Meetings/>

**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:

12/10/2014 - Special  
01/12/2015 - Adjourned  
01/13/2015 - Special 9:00 am  
01/13/2015  
01/14/2015 - State of the City Address

**PROCLAMATIONS/CEREMONIAL ITEMS**

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

ITEM-30: Engineers Week.

**PRESENTED BY COUNCIL PRESIDENT LIGHTNER:**

Proclaiming February 22, 2015, through February 28, 2015, to be "Engineers Week" in the City of San Diego.

ITEM-31: IBEW Electrical Workers Minority Caucus Day.

**PRESENTED BY COUNCILMEMBER COLE:**

Proclaiming February 24, 2015, to be "IBEW Electrical Workers Minority Caucus Day" in the City of San Diego.

ITEM-32: Lunar New Year Day.

**PRESENTED BY COUNCILMEMBER CATE:**

Proclaiming February 24, 2015, to be "Lunar New Year Day" in the City of San Diego.

ITEM-33: Judy Getis Remembrance Day.

**PRESENTED BY COUNCILMEMBER SHERMAN:**

Proclaiming February 24, 2015, to be "Judy Getis Remembrance 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 2.6.2, of the San Diego Municipal Code, comments are limited to two minutes per speaker. Speakers may not allocate their time to other speakers. If there are eight (8) or more speakers on a single issue, the maximum time allotted for that issue will be sixteen (16) minutes. Non-Agenda Public Comment is limited to 30 minutes during the Tuesday morning Council session. Any remaining speakers will be given an opportunity to speak after Council concludes the remaining agenda items for that day. Speaker order will generally be decided on a first-come, first-served basis. However, in the event that there are more than 15 Non-Agenda Public Comment speakers on a particular Tuesday, priority may be given to speakers who have not addressed the legislative body during "Non-Agenda Public Comment" at the last regularly scheduled Council meeting.

**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 TO BE INTRODUCED:**

- \* ITEM-50: Third Amendment to the Facility Franchise Agreement with San Diego Landfill Systems, Inc., for transportation and beneficial reuse of biosolids. (Citywide.)

**ITEM DESCRIPTION:**

This action is for approval of the Third Amendment to the Facility Franchise Agreement with San Diego Landfill Systems, Inc., to collect, transport and dispose of biosolids at Metro Biosolids Center. This Amendment is not-to-exceed a total of \$41,602,790 over the five years of the contract.

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2015-70 Cor. Copy)

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute, for and on behalf of said City, an amendment to the Facility Franchise Agreement with San Diego Landfill Systems, LLC, under the terms and conditions set forth in the Third Amendment to the Agreement;

Authorizing the expenditure of an amount not to exceed \$2,021,500 from the Metro Sewer Utility Fund 700001, for the purpose of providing funds in Fiscal Year 2015 for the above-referenced Third Amendment;

Authorizing the Chief Financial Officer to expend funds necessary for the Third Amendment in subsequent fiscal years, contingent upon the adoption of the Annual Appropriation Ordinance for the applicable fiscal year and upon the Chief Financial Officer furnishing one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

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

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

In Fiscal Year 2015, the amount of \$2,021,500 is encumbered from the FY 2015 Operating Budget, Metro Sewer Utility Fund 700001, in PO No. 4500056664.

For Fiscal Years 2016, through 2020, it is anticipated that total expenditures will be \$39,581,288 from the Metro Sewer Utility Fund 700001.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

This item was heard at the Environment Committee meeting on February 4, 2015, and forwarded to the full Council with a recommendation to approve.

ACTION: Motion by Councilmember Emerald, second by Councilmember Cate, to approve.

VOTE: 4-0; Alvarez-yea, Gloria-yea, Cate-yea, Emerald-yea.

Murray/Heinrichs

Primary Contact\Phone: Cheryl Lester\858-292-6447, MS 903

Secondary Contact\Phone: Barry Ayers\858-614-5803, MS 901M

City Attorney Contact: Jung, Jeremy A.

ADOPTION AGENDA, CONSENT ITEMS

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

\* ITEM-51: Otay 2nd Pipeline Relocation Participation Agreement.

**ITEM DESCRIPTION:**

This ordinance will approve a ten (10) year Participation Agreement with an option to extend the term of the Agreement for two five (5) year terms for a total agreement term of twenty (20) years. The Participation Agreement outlines each segment of work, the City and Developers cost, and the schedule to begin and complete each segment. Therefore, City funding has been identified for each fiscal year and may move forward in time depending upon the development schedule of Otay Ranch.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 2/10/2015, Item 53. (Council voted 9-0.):

(O-2015-64)

Authorizing the Mayor, or his designee, to execute a Participation Agreement and establish contract funding phases for the Participation Agreement with Developers for the design and construction of the Otay Second Pipeline Relocation - Participation Agreement in an amount not to exceed \$28,093,224;

Authorizing the Chief Financial Officer to add CIP S-15016, Otay Second Pipeline Relocation - Participation Agreement, to the Capital Improvements Program;

Authorizing the Chief Financial Officer, to increase the Capital Improvements Program Budget in CIP S-15016, Otay Second Pipeline Relocation - Participation Agreement, and to appropriate and expend \$1,634,092 from Fund No. 00010, Water Utility - CIP Funding Source, for the purpose of funding the Participation Agreement and in-house costs;

Authorizing the Chief Financial Officer to award and expend funds under the established contract funding phases in an amount not to exceed \$1,584,092 for the first phase (FY15), and \$26,509,132 for all subsequent phases from CIP S-15016, Otay Second Pipeline Relocation - Participation Agreement, Fund No. 700010, Water Utility - CIP Funding Source, 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 certifying that the funds necessary for expenditure under the established contract funding phases are, or will be, on deposit with the City Treasurer;

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.**

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:

- \* ITEM-60: Amendment No. 2 with ADS CORP (ADS) for the Sewer Flow Monitoring & Event Notification System, Contract No. 10004692-10-W. (Citywide.)

**ITEM DESCRIPTION:**

This action is the Second Amendment to the Agreement with ADS CORP (ADS) for Sewer Flow Monitoring and Event Notification Equipment to monitor sewage flows for the City and the Participating Agencies. This Amendment increases the current contract by \$6,932,402 and will extend the contract for an additional five years with an end date of June 23, 2020.

**STAFF'S RECOMMENDATION:**

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

Subitem-A: (O-2015-74)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Second Amendment to the Agreement with ADS CORP (ADS), for a maximum amount of \$6,932,402.40, which will extend the Agreement for up to five years, contingent upon 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 funds necessary for expenditure are, or will be, on deposit with the City Treasury;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$6,932,402.40 from Muni Sewer Revenue Fund 700000 and Metro Sewer Utility Fund 700001, of which \$1,370,040 is for Fiscal Year 2016, for the purpose of the aforementioned Second Amendment, contingent upon the Chief Financial Officer furnishing one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasury;

Waiving Council Policy 300-7 with respect to execution of the aforementioned Second Amendment.

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

Subitem-B: (R-2015-404)

Determining that the Project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301 and 15306;

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

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

The total not to exceed amount for Amendment No. 2 to this Agreement is \$6,932,402.40, of which \$1,370,040 is for FY 2016, and \$5,562,362.40 is for the total of the four option years. Funding will be available in total from Muni Sewer Revenue Fund 700000 and Metro Sewer Utility Fund 700001, contingent upon adoption of the Annual Appropriation Ordinance for the applicable fiscal year, and contingent upon City Comptroller furnishing one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

- R- 305893, June 21, 2010, Original Agreement; and C-15780, April 6, 2012, Amendment No.1.

- This item was heard at the Environment Committee meeting on February 4, 2015, and forwarded to the full Council with a recommendation to approve.

ACTION: Motion by Councilmember Emerald, second by Councilmember Cate, to approve.

VOTE: 4-0; Alvarez-yes, Gloria-yea, Cate-yea, Emerald-yea.

Helminski/Heinrichs

Primary Contact\Phone: Mike Faramarzi\858-614-4518, MS 901

Secondary Contact\Phone: Edson Bandoy\858-292-6458, MS 901

City Attorney Contact: Jung, Jeremy A.

**ADOPTION AGENDA, CONSENT ITEMS**

**RESOLUTIONS:**

- \* ITEM-100: Joint Use Agreement with SDG&E for Undergrounding of Power Lines in the Balboa Avenue and Eastgate Mall Project Areas. (Clairemont Mesa and Sorrento Valley Community Areas. Districts 1, 2, and 6.)

**ITEM DESCRIPTION:**

This action will authorize the Mayor, or his designee, to execute Joint Use Agreements with SDG&E for the purpose of undergrounding overhead power transmission lines along Balboa Avenue, Clairemont Drive, and Lakehurst Avenue and overhead power distribution lines on Eastgate Mall Project.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-414)

Authorizing the Mayor, or his designee, to enter into Joint Use Agreements with SDG&E for the Balboa Transmission Project and the Eastgate Mall Project for the purpose of undergrounding overhead power transmission lines.

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

There is no exchange of funds associated with this JUA, however the City and SDG&E agree to 50/50 share future costs associated with relocating SDG&E's facilities in the subject project areas should the City require SDG&E to relocate their facilities due to a conflict with a City project in the same area.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

This item was heard at the Environment Committee meeting on February 4, 2015, and forwarded to the full Council with a recommendation to approve.

**ACTION:** Motion by Councilmember Emerald, second by Councilmember Cate, to approve.

**VOTE:** 4-0; Alvarez-yea, Gloria-yea, Cate-yea, Emerald-yea.

McFadden/Heinrichs

Primary Contact\Phone: Hasan Yousef\619-533-3012, MS 608  
Secondary Contact\Phone: Mario Reyes\619-533-7426, MS 608  
City Attorney Contact: Gerrity, Ryan P.

\* ITEM-101: Increase of funding authorization for Mueller Systems contract for Purchase of Water Meters. (Citywide.)

**ITEM DESCRIPTION:**

Authorizing the Mayor, or his designee, to exercise the remaining year of the contract with Mueller Systems to furnish and deliver AMI compatible water meters (Bid Number 10007038-10-W, Contract Number 4600000261) to allow establishment of purchase orders for Fiscal Year 2015 that will exceed the 6,000,000 threshold previously approved. The meters to be purchased are needed to replace failing or poor performing meters.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-234)

Authorizing the Mayor, or his designee, to increase the not-to-exceed amount to \$7,000,000 in the current contract year with Mueller Systems formerly Hersey Meters, (Bid Number 10007038-10-W, Contract Number 4600000261) to furnish and deliver Advanced Metering Infrastructure (AMI)-compatible water meters; provided that the Chief Financial Officer first issues one or more certificates certifying that the funds necessary for expenditure are on deposit with the City Treasury;

Authorizing the Chief Financial Officer to make expenditures of an amount not to exceed \$1,641,108 in Fiscal Year 2015; from Central Stores revolving Fund 720040, solely and exclusively, for the purpose of providing funds for Mueller Systems Contract for Purchase of Water Meters, provided that the Chief Financial Officer first furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasury;

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

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

The total not to exceed amount for the fifth option year in Fiscal Year 2015 is \$1,641,108, of which \$641,108 is already encumbered in Fiscal Year 2015 Purchase Orders. This leaves a balance of \$1,000,000 which is available in total from Central Stores Revolving Fund 720040, provided that the City Comptroller first issues a Comptroller's Certificate certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

- On June 26, 2012, City Council authorized an extension of the Agreement with Hersey for an additional four years through July 11, 2015, in accordance with the annual renewal option of a total contact amount not to exceed \$6,000,000 per Resolution No. R-307543.
- This item was heard at the Environment Committee meeting on February 4, 2015, and forwarded to the full City Council with a recommendation to approve.

ACTION: Motion by Councilmember Emerald, second by Councilmember Cate, to approve.

VOTE: 4-0; Alvarez-yea, Gloria-yea, Cate-yea, Emerald-yea.

Mulvey/Nagelvoort

Primary Contact\Phone: Isam Hireish\619-527-7434, MS 43  
Secondary Contact\Phone: Tonia Carnell\619-527-7407, MS 43  
City Attorney Contact: Mercer, Mark M.

\* ITEM-102: Water Supply Assessment (WSA) for Ballpark Village Parcel C Residences Project.

**ITEM DESCRIPTION:**

This action is to approve the Water Supply Assessment (WSA) prepared for the Ballpark Village Parcel C Residences Project. The assessment has been prepared for inclusion within the environmental documentation for this project, in accordance with California State Water Code Section 10910.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-370)

Approving the Water Supply Assessment (WSA) for the Ballpark Village Parcel C Residences Project.

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

No cost.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

This item was heard at the Environment Committee meeting on February 4, 2015, and forwarded to the full Council with a recommendation to approve.

ACTION: Motion by Councilmember Emerald, second by Councilmember Cate, to approve.

VOTE: 4-0; Alvarez-yea, Gloria-yea, Cate-yea, Emerald-yea.

Murray/Heinrichs

Primary Contact\Phone: George Adrian\619-533-4680, MS 906

Secondary Contact\Phone: Marsi A. Steirer\619-533-4112, MS 906

City Attorney Contact: Palmucci, Raymond C.

\* ITEM-103: Declaring Surplus in the Del Mar Terrace Underground Utility Assessment District. (Del Mar Heights Community Area. District 1.)

**ITEM DESCRIPTION:**

This action is to declare a surplus in the Del Mar Terrace Underground Utility Assessment District. This will allow the funds to be returned to the current property owners of record of the assessed properties.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-365 Cor. Copy)

Declaring surplus funds in the Del Mar Terrace Underground Utility Assessment District, Fund 200501, Del Mar Terrace, in the amount of \$355,078.02, as outlined within the State of California - Street and Highways Code Section 10427, which was originally established to fund the project for the purpose of undergrounding overhead utilities within the Torrey Pines Community Planning Area;

Authorizing the Chief Financial Officer to reduce the Capital Improvement Program Budget by de-appropriating \$150,687.72 in Fund 200501, Del Mar Terraces, A-ID.00001, Undergrounding of City Utilities;

Authorizing the Chief Financial Officer to appropriate and expend an amount not to exceed \$355,078.02 from Fund 200501, Del Mar Terrace, Internal Order 12004117, for the purpose of returning excess budget to property owners of record;

Authorizing the Chief Financial Officer to close Fund 200501, Del Mar Terrace.

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

Total cost of the disbursement to assessed property owners is not to exceed \$355,078.02; of which, \$150,687.72 of declared surplus funding and \$204,390.30 of earned interest is available in Fund 200501, Del Mar Terrace Fund, contingent upon the Chief Financial Officer furnishing one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer (CC3000007398).

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

This item was heard at the Environment Committee meeting on February 4, 2015, and forwarded to the full Council with a recommendation to approve.

**ACTION:** Motion by Councilmember Emerald, second by Councilmember Cate, to approve.

**VOTE:** 4-0; Alvarez-yea, Gloria-yea, Cate-yea, Emerald-yea.

Helminski/Heinrichs

Primary Contact\Phone: Hasan Yousef\619-533-3012  
Secondary Contact\Phone: Mario Reyes\619-533-7426  
City Attorney Contact: Gerrity, Ryan P.

\* ITEM-104: Community Projects, Programs, and Services Funding Allocation to Second Chance for Job Readiness Training.

**ITEM DESCRIPTION:**

Approval of funding allocation from Council Districts 5 and 7, along with authorization from the City Council are requested to allow the Mayor, or his designee, to enter into an Agreement with Second Chance for an amount not to exceed \$10,000 for Job Readiness Training.

**COUNCILMEMBER KERSEY'S AND COUNCILMEMBER SHERMAN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-397)

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 Second Chance in an amount not to exceed \$10,000 for the project described herein, under terms and conditions set forth in the Agreement;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$10,000 from the Community Projects, Programs and Services Budget Fund No. 100000, as follows: \$5,000 from Cost Center 1105110005, and \$5,000 from Cost Center 1107110007 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 with the City Treasurer.

**SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

\$5,000 in Council Community Projects, Programs, and Services Funding from Fund 100000, Cost Center 105110005 and \$5,000 in Council Community Projects, Programs, and Services Funding from Fund 100000, Cost Center 1107110007 will be used for Job Readiness Training.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:** N/A

Bouteller

Primary Contact\Phone: Tiffany Vinson\619-236-6655

City Attorney Contact: Dugard, Prescilla

- \* ITEM-105: Community Projects, Programs and Services Funding Allocation to Hillcrest Business Association for permitting of neighborhood patriotic flags. (Hillcrest Community Area. District 3.)

**ITEM DESCRIPTION:**

Approval of the funding allocation from Council District 3, along with authorization from the City Council are requested to allow the Mayor, or his designee, to enter into an Agreement with Hillcrest Business Association for an amount not to exceed \$1,969.50 for permitting of neighborhood patriotic flags.

**COUNCILMEMBER GLORIA'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-412)

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 Hillcrest Business Association in an amount not to exceed \$1,969.50 for the Project described herein, under terms and conditions set forth in the Agreement;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$1,969.50 from the Community Projects, Programs and Services Budget Fund 100000, Cost Center 1103110003, 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 with the City Treasurer.

**SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

\$1,969.50 in Council Community Projects, Programs, and Services Funding from Fund 100000, Cost Center 1103110003, will be used for permitting of neighborhood patriotic flags.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:** N/A

Fox

Primary Contact\Phone: Molly Chase\619-236-7758

City Attorney Contact: Dugard, Prescilla

\* ITEM-106: Authorize extension of outside counsel in the defense of former San Diego Police Officer Arevalos in several cases, brought against him, the City and other related defendants, Various Risk files. (District 2.)

**ITEM DESCRIPTION:**

This request is for payments of outstanding legal bills to Haight Brown & Bonesteel, LLP, to compensate them for their defense of former San Diego Police Officer Anthony Arevalos, arising from the personal injury claim of Jane Doe, U.S. District Court Case Number: 12cv00689-MMA (DHB).

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-421)

Authorizing the extension of the Outside Counsel Contract with Haight, Brown & Bonesteel LLP, for legal services in connection with *Doe v. City of San Diego, et. al* (USDC 12CV00689-MMA (DHB)), and related cases, for the defense of former San Diego Police Officer Anthony Arevalos;

Authorizing the Chief Financial Officer to execute, for and on behalf of the City, an extension of the Agreement with Haight, Brown & Bonesteel LLP, for the purposes of the defense of the civil litigation against Mr. Arevalos, for an additional amount up to \$60,000 from the Public Liability Fund 720045, solely and exclusively, for the purpose of providing funds for the above-described legal services and litigation expenses, bringing the total contract request to \$310,000;

Authorizing the Chief Financial Officer to appropriate up to an additional \$60,000 from the Public Liability Fund to meet this obligation.

**SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

Council previously authorized \$250,000 for this contract, and the current request is for an additional \$60,000. The total contract request is \$310,000 to be paid from the Public Liability Fund 720045.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

The original item was considered in Closed Session on June 12, 2012, and was approved by Resolution (R-2013-390) on January 23, 2013.

Bamberg

Primary Contact\City Attorney\Phone: Christina Milligan\619-235-5895, MS 59

\* ITEM-107: Settlement of *Kim L. Preciado v. City of San Diego*, SDSC 37-2013-00077591-CU-PA-CTL, Risk Management File No. 752.

**ITEM DESCRIPTION:**

Settlement of case *Kim L. Preciado v. City of San Diego*, SDSC 37-2013-00077591-CU-PA-CTL.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-366)

Authorizing the sum of \$55,000 to be paid from the Public Liability Fund 720045, in settlement of each and every claim for damages, interest, costs and fees of any type, including attorney fees, against the City, its agents and employees, arising from the Litigation;

Authorizing the City Comptroller to issue a check in the amount of \$55,000 payable to Pacific Trial Lawyers and Kim Preciado.

**SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

Settlement in the amount of \$55,000 will be paid from the Public Liability Fund 720045.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

Approved in Closed Session on January 20, 2015.

Bamberg

Primary Contact\Phone: Christine Leone\619-533-6392  
Secondary Contact\Phone: Daniel Bamberg\619-236-7729  
City Attorney Contact: Leone, Christine M.

\* ITEM-108: Appointments and Reappointments to the Park & Recreation Board.

**MAYOR FAULCONER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-361)

Council confirmation of the following appointments and reappointments by the Mayor of the City of San Diego, to serve as members of the Park and Recreation Board, for terms expiring as indicated:

<b><u>NAME</u></b>	<b><u>TERM EXPIRES</u></b>
William Diehl (Rancho Penasquitos, District 5) (Reappointment)	March 1, 2016
David Kinney (North Park, District 3) (Reappointment)	March 1, 2016
Martin Moreno (Ocean Beach, District 2) (Filling the seat previously held by Michael Stepner, who is termed out)	March 1, 2016
David Baron (Normal Heights, District 3) (Filling the seat previously held by Rick Bussell, who is termed out)	March 1, 2016

\* ITEM-109: Reappointment to the Planning Commission.

**MAYOR FAULCONER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-422)

Confirming the following reappointment by the Mayor of the City of San Diego, to serve as a member of the Planning Commission, for a term ending as indicated:

<b><u>NAME</u></b>	<b><u>TERM ENDING</u></b>
Stephen Haase (Navajo, District 7) (Reappointment)	1/28/2019

\* ITEM-110: Excusing Councilmember Emerald from the Council meetings of January 26, 2015, and February 2, 2015, due to illness.

**COUNCIL PRESIDENT PRO TEM EMERALD'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-418)

Excusing Councilmember Marti Emerald from attending the Council meetings of January 26, 2015, and February 2, 2015, due to illness.

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

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

**The following item will be considered in the morning session which is scheduled to begin at 10:00 a.m.**

ITEM-330: Fiscal Year 2014 Comprehensive Annual Financial Report (CAFR).

**ITEM DESCRIPTION:**

Presenting the Fiscal Year 2014 Comprehensive Annual Financial Report (CAFR) to the Audit Committee and requesting that the report be forwarded to the City Council to be received and filed.

**CITY COMPTROLLER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-420)

Receiving the 2014 Comprehensive Annual Financial Report (CAFR) and filing with the City Council.

**SUPPORTING INFORMATION:**

FISCAL CONSIDERATIONS: N/A

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

This item was heard at the Audit Committee meeting on February 11, 2015.

**ACTION:** Motion by Committee Member Hebrank, second by Committee Member Schreiner, to accept the report and forward to Council for receipt and filing.

**VOTE:** 5-0; Sherman-yea, Zapf-yea, Hebrank-yea, Schreiner-yea, Valdivia-yea. (Rev. 2/19/15)

Charvel/Lewis

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Secondary Contact\Phone: Scott Clark\619-235-5887

City Attorney Contact: Will, Brant C.

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

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

ITEM-331: Renewal of the Downtown Property and Business Improvement District. (Centre City and Downtown Community Plan Areas. District 3.)

**ITEM DESCRIPTION:**

The term of the existing Downtown Property and Business Improvement District (PBID) ends June 30, 2015. The Downtown San Diego Partnership in conjunction with property owners has developed a proposal to renew the PBID for ten (10) years and has submitted sufficient petitions to bring this matter to Council for consideration. This requires initial Council adoption of a Resolution of Intention to renew and levy along with a ballot procedure and a noticed public hearing prior to renewal. If there is no majority protest then Council may renew the District by adopting the Resolution of Formation which may include approving the expenditure of funds for FY2016.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-419)

Adoption of a Resolution certifying that the Petition meets the requirements of the Property and Business Improvement District (PBID) Law, specifically California Streets and Highways Code Section 36621(a), and is executed by property owners whose names appear on the last equalized assessment roll, or are otherwise known by the City Council to be the owner of land, as shown on the records on file with the San Diego County Assessor's office, a copy of which is on file with the Office of the City Clerk and incorporated herein by reference;

Declaring the City Council's intent to renew the District through June 30, 2025, and to levy and collect assessments to pay a prescribed portion of the cost of future activities, improvements, maintenance and/or services of those items described in the District Plan, located within the boundaries of the District, in the City under the provision of PBID Law, Article XIID, Section 4 of the California Constitution, and California Government Code Sections 53739, 53750, 53753, 53753.5, and 54954.6;

That the proposed improvements, maintenance, and activities of the District can be generally described as activities and improvements which confer a benefit to assessed parcels and consisting of those items described in the District Plan. “Activities” means, but is not limited to, all of the following that benefit real property in the District: promotion of public events; furnishing of music in any public place; promotion of tourism within the District; marketing and economic development, including retail retention and recruitment; providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality; and other services provided for the purpose of conferring special benefit upon assessed real property located in the District. “Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following: parking facilities; benches, booths, kiosks, display cases, pedestrian shelters and signs; trash receptacles and public restrooms; lighting and heating facilities; decorations; parks; fountains; planting areas; closing, opening, widening, or narrowing of existing streets; facilities or equipment, or both, to enhance security of persons and property within the area; ramps, sidewalks, plazas, and pedestrian malls; and rehabilitation or removal of existing structures;

The total amount of the proposed assessment for the District for Fiscal Year 2016 is \$7,400,335.38. The annual assessment for each parcel is based on benefit zone (location of parcel within District), parcel or building square footage, and linear street front footage using the following information:

<u>Benefit Zone</u>	<u>Size Footage Rate</u> (\$/sq.ft./yr.)	<u>Front Footage Rate</u> (\$/lin.ft./yr.)
Columbia	\$0.043 <sup>1</sup>	\$8.822
Core	\$0.047 <sup>1</sup>	\$9.915
Cortez	\$0.071 <sup>1</sup>	\$7.354
East Village	\$0.083 <sup>1</sup>	\$9.274
Gaslamp	\$0.0237 <sup>1</sup>	\$30.854
Marina	\$0.078 <sup>1</sup>	\$11.037
Commercial Enhancement Program	\$0.035 <sup>2</sup>	Not Assessed

<sup>1</sup>Applied to the greater of either parcel square footage or building square footage

<sup>2</sup>Applied to building square footage

The assessment rates shall be subject to an increase of no more than five percent per year. Reference is made to the District Plan for a more complete description of the District, the assessment, and funded activities;

The proposed assessment shall be levied on each property within the District;

No bonds will be issued in connection with the District;

The exterior boundaries of the proposed District are identified on the District Map, a copy of which is on file with the City Clerk, and incorporated herein by reference;

Holding a public hearing (Hearing) on May 11, 2015, at 2:00 PM, or as soon thereafter as it may be heard, in the City Council Chambers of the City Administration Building, 202 C Street, 12th floor, San Diego, California, pursuant to California Government Code Section 53753. At the Hearing, all persons will be permitted to present written or oral testimony regarding the District and the levy of the proposed assessment and the City Council will consider all objections or protests, if any, to the levy of the proposed assessment. The Hearing may be continued at the discretion of the City Council;

Directing the City Clerk and City staff to mail notices of the Hearing and assessment ballots to the properties identified in Appendix 9 of the District Plan. Such notice of the Hearing and assessment ballots shall be mailed at least forty-five (45) days before the date of the Hearing, postage prepaid, to all affected property owners, whose names and addresses appear on the last equalized secured property tax assessment roll, all in the manner and form provided for in California Government Code Sections 53750-53756;

Issuing, accepting, and tabulating ballots in the manner set forth in PBID Law, Article XIIIID, Section 4 of the California Constitution, California Government Code Section 53753, and the Guidelines for the Return and Tabulation of Assessment Ballots, a copy of which is on file with the City Clerk and incorporated herein by reference. At the conclusion of the public Hearing, a person or persons designated by the City Clerk will tabulate ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. A majority protest exists if the ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the ballots submitted, and not withdrawn, in its favor. For purposes of calculating whether a majority protest exists, the ballot returned by a property owner shall be weighted by the estimated assessment obligation of the property owner. The estimated assessment obligation applicable to each property owner will be calculated by applying the assessment rates set forth in this Resolution, discussed in further detail in the District Plan, and specifically identified Appendix 1 of the District Plan. If there is a majority protest against the imposition of the assessment, the City Council will not impose the assessment.

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

If the PBID is renewed then an estimated \$7,400,335.38 of annual assessments are proposed to be levied and collected. This will include an amount for assessments on City parcels (Fiscal Year 16 amount is \$498,748.06); and an allocation from the Gas Tax Fund would likely continue for median maintenance (Fiscal Year 2016 amount is \$19,437). Also, the PBID Administrator will have to provide funding for the general benefit portion of the proposed activities and improvements and that amount is estimated to be \$237,640.86). If the PBID is renewed and if a suit is filed, there may be a fiscal impact to the General Fund if funds are expended and litigation results in an adverse outcome.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

Council approved the establishment of the PBID on February, 2, 2000, (R-292797), a 10-year renewal on June 14, 2005, (R-300533), the establishment of the Commercial Marketing District Zone (CMD) on September 25, 2015, (R-307698), and the First Amendment to the Operating and Management Agreement Sep/Oct 2012 (O-20206). PBID Budgets have been approved annually by Council (Fiscal Year 2015 heard July 22, 2014). A draft of the Plan was presented to ED&IR Committee July 30, 2014, as an Information Item.

Moreno\Graham\mdb

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Secondary Contact\Phone: Elizabeth Studebaker\619-533-4561, MS 56D  
City Attorney Contact: Skogen, Daphne Z.

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

ITEM-332: Ouchi Courtyards Family Apartments (5003 Imperial Avenue) - Terms and Conditions of Disposition and Development Agreement and Ground Lease - Public Hearing. (Lincoln Park Neighborhood of the Encanto Neighborhoods in the Southeastern San Diego Community Plan Area. District 4.)

**ITEM DESCRIPTION:**

The Ouchi Courtyards Family Apartments is proposed for the 50,530 square-foot site owned by the Housing Successor at 5003 Imperial Avenue, (“Site”) located mid-block on the south side of Imperial Avenue. The proposed Project will provide 45 family housing units, 44 affordable housing units and one manager’s unit, and 5,000 square feet of ground floor retail space. The affordable housing units will be restricted for 55 years to very low and low income families with 11 units restricted to persons earning 60% of Area Median Income, 14 units to persons earning 50% of AMI, 9 units to persons earning 40% of AMI and 10 units to persons earning 30% of AMI.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-416)

Declaring that the Council has received and heard any and all oral and written objections relating to the proposed Agreement and the proposed Ground Lease, and all such oral and written objections are overruled;

Confirming that the analysis contained in the Consistency Evaluation is consistent, the environmental effects of the Project were adequately addressed in the 2009 Final EIR and the Project is within the scope of the development program described therein;

Adopting the following findings and determinations, as set forth in the Consistency Evaluation, with respect to the environmental effects of the Project;

- (a) No substantial changes are proposed in the Southeastern San Diego Merged Redevelopment Project, or with respect to the circumstances under which the Southeastern San Diego Merged Redevelopment Project is to be undertaken as a result of the Project, which will require important or major revisions in the 2009 Final EIR; and

- (b) No new information or substantial importance to the Southeastern San Diego Merged Redevelopment Project has become available, which was not known or could not have been known at the time the 2009 Final EIR was certified as complete, and which shows that the Project will have any significant effects not discussed previously in the 2009 Final EIR, or that any significant effects previously examined will be substantially more severe than shown in the 2009 Final EIR, or that any mitigation measures or alternatives previously found not to be feasible or not previously considered would substantially reduce or lessen any significant effects on the environment; and
- (c) No negative declaration, subsequent environmental impact report, or supplement or addendum to the 2009 Final EIR is necessary or required; and
- (d) The development of the Project will have no significant effect on the environment, except as identified and considered in the 2009 Final EIR, and no new or additional project-specific mitigation measures are required in connection with development of the Project; and
- (e) The Project would not have any new effects that were not adequately covered in the 2009 Final EIR, and therefore, the Project is within the scope of the development program approved under the 2009 Final EIR;

Declaring that pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162, the Council determines that no further environmental documentation is required to address the potential environmental effects of the Project;

~~Approving and adopting the Mitigation Monitoring and Reporting Program derived from the 2009 Final EIR, tailored specifically for the Project, and attached to the Consistency Evaluation;~~

~~Directing the City Clerk, or designee, to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project;~~  
(Rev. 2/23/15)

Declaring that the Council finds and determines that the consideration to be received by the City for the ground leasing of the Property for the Lease Term is not less than fair reuse value at the use and with covenants and conditions and development costs authorized by the Agreement and the Ground Lease for, among other reasons, the reasons set forth in the Summary Report;

Declaring that the Council finds and determines that the ground leasing of the Property for the Lease Term and the development of the Property in accordance with the Agreement and the Ground Lease will assist in providing housing for extremely-low income, very-low income and low income persons, for, among other reasons, the reasons set forth in the Summary Report;

Approving the ground leasing of the Property to the Developer for the Lease Term and the development of the Property, in accordance with the Agreement and the Ground Lease;

Approving the Agreement, including all attachments and exhibits thereto;

Authorizing the Mayor, or his designee, to execute the Agreement, including all attachments and exhibits thereto requiring the City's signature;

Authorizing the Mayor, or designee, to sign all documents necessary and appropriate to carry out and implement the Agreement and to administer the City's obligations, responsibilities, and duties to be performed under the Agreement, including all attachments and exhibits thereto;

Approving the Basic Concept Drawings for the Ouchi Courtyards Affordable Housing Project;

Authorizing the Chief Financial Officer, as delegated, to appropriate, encumber, and expend an amount not to exceed \$5,000,000 from the Low and Moderate Income Housing Asset Fund in accordance with the Agreement, contingent on certification by the City Comptroller that funds are available.

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

The proposed Project subsidy of \$5,000,000, or \$111,100 per unit, will be funded by the Low and Moderate Income Housing Asset Fund (LMIHAF).

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:** None.

Phillips/Graham

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City Attorney Contact: Malcolm, Katherine Anne

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT