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## REPORT TO THE COMMITTEE ON BUDGET AND GOVERNMENT EFFICIENCY

### UPDATE TO RC-2011-10 REGARDING PUBLIC SERVICES OBLIGATED UNDER THE SAN DIEGO CHARTER

#### INTRODUCTION

The Office of the City Attorney published a Report to the Committee on Budget and Finance on February 23, 2011, titled “Public Services Obligated Under the San Diego Charter” (2011 Report). 2011 City Att’y Report 281 (11-10; Feb. 23, 2011). The 2011 Report, attached as Attachment 1, provided an overview of some of the duties the San Diego Charter (Charter) places on City officials to provide certain services to the public. The 2011 Report also addressed any legal priorities the Charter places on the Council of the City of San Diego’s (Council) discretionary decisions; whether the Charter obligates the City of San Diego (City) to provide any specific levels of service; and whether it places limitations on the use of funds that are allocated for public services.

This Office was recently asked to update the 2011 Report and provide a presentation to the January meeting of the Budget and Government Efficiency Committee. This update discusses Charter-required services that were adopted after, not included in, or not addressed in detail in the 2011 Report.

#### DISCUSSION

##### I. PUBLIC SERVICES TO BE PROVIDED UNDER THE CHARTER

###### A. Redistricting

San Diego Charter section 5 requires that the City be redistricted at least once every 10 years, following the Federal Decennial Census. “However, if any territory annexed, deannexed or consolidated upsets the approximate equality of the populations of the established districts, a redistricting shall be conducted . . .” San Diego Charter § 5. The City’s Redistricting Plan was adopted in January 2022. However, if any territory in the City is deannexed before the next required redistricting and that deannexation results in a significant population change in one or more Council Districts, the City would need to conduct a new redistricting to account for the deannexation.

Additionally, Charter section 5.1 requires the Council to appropriate funds to the Redistricting Commission and the City Clerk to adequately carry out their Charter-mandated duties related to redistricting.

## **B. Charter-Mandated Roles and Work**

Charter section 28 sets out the duties of the City Manager, which is now the Mayor. These duties include: supervising the City's administration of affairs; advising the Council of the City's financial condition and future needs; preparing and submitting to the Council the annual budget estimate and any required reports; and overseeing enforcement of City ordinances and state law. Charter section 28 also requires the Council to "provide sufficient funds in the annual appropriation ordinance or by supplemental appropriation ordinances for [the purposes of hiring experts or consultants when needed to perform work or give advice to City departments.]" Charter § 28.

Charter section 38 requires the City Clerk to maintain all official City records.

Charter section 39 established the position of the City's Chief Financial Officer (CFO) and requires the CFO to perform the duties imposed upon chief municipal fiscal officers under state law and other duties required by ordinance.

Charter section 39.2 established the position of the City Auditor (Auditor) and requires the Auditor to prepare an annual Audit Plan, conduct audits, and perform other duties required under state law or ordinance.

Charter section 39.3 established the position of the Independent Budget Analyst to provide budgetary and policy analysis for the Council.

Under Charter section 40, the City Attorney is the chief legal advisor for the City and all departments and offices, except the Ethics Commission, the Commission on Police Practices, and in certain circumstances, the Office of the City Auditor and the Audit Committee. Charter section 40 also requires the City Attorney to prosecute violations of the San Diego Municipal Code and state law and prosecute or defend all cases in which the City is a party.

Charter section 45 established the position of the City Treasurer (Treasurer) to perform duties imposed on City Treasurers by general law, the Charter, or ordinances. The Treasurer shall receive, maintain custody of, and disburse City monies; keep all books and records necessary; demand and receive City tax monies; determine where to deposit City funds; and account for all interest accrued. The Treasurer shall also initiate collections of debts owed to the City and issue notices for and collect special assessments and other fees, taxes, and assessments.

### **C. Charter-Mandated Committees and Commissions**

The Charter-mandated Committees and Commissions are the Redistricting Commission (Charter section 5.1), Audit Committee (Charter section 39.1), Funds Commission (Charter section 41(a)), Civil Service Commission (Charter section 41(b)), Planning Commission (Charter section 41(c)), Commission on Police Practices (Charter section 41.2), Ethics Commission (Charter section 41.3), and the Mission Bay Park Improvement Fund Oversight Committee (Charter section 55.2(a)(6)).

### **D. Payment of Outstanding Debt Obligations**

Charter section 74 requires that the City budget and appropriate adequate funds to pay the City's outstanding debt obligations, such as bonds, loans, etc. If the Annual Appropriation Ordinance does not appropriate adequate funds, the CFO is required to do so unilaterally. Further, any City taxpayer or bondholder can sue to force the City to appropriate the full amount of funds necessary to meet the City's debt service obligations in a given year.

### **E. Proceeds of Sale of City-owned Property**

In 2016, the voters amended Charter section 77 to require the proceeds from the sale of City-owned property to be used exclusively for the acquisition and construction of permanent public improvements, including public buildings and initial furnishings, equipment, supplies, inventory, and stock. The proceeds may also be used to reimburse the General Fund for prior capital expenditures, financing costs, and replacement, but not for repair or maintenance.

### **F. Infrastructure Fund**

In 2016, the voters added Charter section 77.1 to require certain monies in the General Fund be dedicated to fund General Fund infrastructure, as defined. These monies shall be used for the acquisition of real property, construction, reconstruction, rehabilitation, repair, and maintenance of infrastructure, including costs for financing and personnel. Charter section 77.1(g) allows the Mayor to request, and the Council to approve by a two-thirds majority, a one-year suspension of this requirement.

## **II. CHARTER SECTION 26.1 AND PUBLIC HEALTH SERVICES**

As discussed in the 2011 Report, Charter section 26.1 requires the City provide, among other things, public health services. The County of San Diego (County) has provided public health services for the City since at least 1953, when the City and County entered into a Basic Agreement for Public Health Services to Be Furnished by the County to the City. In 1977, the City and County entered into a Second Basic Agreement for Public Health Services to Be Furnished by the County to the City, which included environmental health services as a component of the County's public health services. In 2019, the City and County entered into a Memorandum of Understanding to Ensure Awareness and Appropriate Response in Public Health Matters. And in 2020, the City and County entered into a Memorandum of Agreement for Public Health and Environmental Health Services (MOA). The MOA was mostly recently amended in June 2023. The MOA and the 2023 Amendment are attached as Attachment 2.

The MOA authorizes the County to provide public health services in the City including: collection, tabulation, and analysis of public health statistics; health education programs; communicable disease control and surveillance; medical, nursing, educational, and other services to promote maternal and child health; laboratory services; services in nutrition; services in chronic disease; services directed to the social factors affecting health; and public health nursing services.

The MOA also authorizes the County to provide the following environmental health services: implementation and enforcement of State environmental health laws and regulations which the County is mandated or authorized by the State to provide; certain State-required basic environmental health services or programs; implementation and enforcement of County-wide environmental health programs; and administering and enforcing additional environmental health programs to the same extent those programs are implemented or enforced in unincorporated parts of the County, and when supported by a parallel City ordinance.

### **III. THE MAYOR AND CITY COUNCIL HAVE DISCRETION TO SET LEVELS OF FUNDING FOR SERVICES**

As the 2011 Report explains, the Mayor and the Council have the discretion to determine the appropriate level of funding for municipal services that the Charter obligates the City to provide through the Charter's integrated budgetary process. When exercising this discretion, the legislative body cannot eliminate funding for mandatory government functions established by the Charter or reduce staffing to a point that Charter-mandated work cannot be accomplished. Additionally, Charter section 11.1 states:

The City Council must give priority in the funding of municipal services to the need of the residents for police protection in considering adoption of this salary ordinance and the annual budget ordinance, and must comply with any collective bargaining laws binding on the City as a public agency employer.

*See also* Cal. Gov't Code §§ 3500-3511; 2012 City Att'y Report 207 (12-4; Feb. 1, 2012).

### **IV. OTHER LEGAL REQUIREMENTS SHOULD BE ADDRESSED DURING THE BUDGET PROCESS**

The City should also consider all funding requirements during the budget process. The City is obligated to fund the services the City has agreed to provide by ordinance or any legally binding agreement, unless those requirements are modified or waived. The City must also comply with any other state or federal mandates. For example, the City must comply with the Americans with Disabilities Act and the California Public Records Act. There can be immediate and tangible consequences to the City if it fails to comply with state and federal requirements, such as litigation, fines, and penalties. The City must consider the direct consequences to the City if it does not meet these non-Charter obligations.



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February 23, 2011

REPORT TO THE COMMITTEE  
ON BUDGET AND FINANCE

PUBLIC SERVICES OBLIGATED UNDER THE SAN DIEGO CHARTER

**INTRODUCTION**

In order to assist the City Council in their discussions regarding the City's budget, the Independent Budget Analyst (IBA) on behalf of the Committee on Budget and Finance has requested this Office to generally identify City services which the City must provide under the San Diego Charter (Charter), San Diego Municipal Code (SDMC or Municipal Code), state and federal laws. The IBA has also requested advice on whether any of these laws require a specific level of service or expenditure of funds for services.

We provide in this Report an overview of the public services the Charter obligates the City to provide, and the Mayor and Council's discretion in setting the level of those services. We also provide some examples of the many federal and state laws that may impact the City's budget, and will provide future guidance in response to specific questions as may be necessary.

**DISCUSSION**

**I. PUBLIC SERVICES<sup>1</sup> TO BE PROVIDED UNDER THE CHARTER**

The Charter creates and forms our municipal government, distributing the powers and duties of the various departments, boards and officers, and generally providing the manner in which the powers should be exercised. 2A McQuillin Mun. Corp. § 9:3 (3rd ed. 2010). It provides an integrated budgetary process by which City leaders annually allocate City money to fund City services. The Mayor provides a Budget recommendation on allocating City funds. Charter § 265(b)(14). The City Council has the final decision on that allocation subject to a special Mayoral veto process. Charter §§ 11, 11.1, 69, 71, and 290.

Generally, this "integrated process of determining the budget of a [city] and adjusting the number of employees in each [city] office to conform to the overall spending plan is a legislative function which 'may not be controlled by the courts.'" *County of Butte v. Superior Court*, 176

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<sup>1</sup> We equate the phrase *City services* with *City functions* and use them interchangeably in this memorandum. See e.g. Cal. Gov't Code § 54980(c).

REPORT TO THE  
COMMITTEE ON  
BUDGET AND FINANCE

Cal. App. 3d 693, 698 (citing *Hicks v. Board of Supervisors*, 69 Cal. App. 3d 228, 235 (1977)). However, the courts also have held that “in making allocation decisions, the legislative body cannot act in excess of its authority by first *eliminating* mandatory government functions” established by a city charter. *Scott v. Common Council*, 44 Cal. App. 4th 684, 697 (1996) (emphasis added). Accordingly, we look to the Charter to determine which services it obligates the City to provide to the public, which it may not entirely eliminate; and any priorities the Charter establishes for those services.<sup>2</sup> The Charter creates some specific Departments to provide some public services, like the Fire and Police Departments. Charter §§ 57 and 58. In addition, Charter section 26.1 obligates the City to provide other public services, such as building inspection, water, public works, parks and recreation and library services. The Charter also requires the City Council to use some City moneys in certain ways for citizen benefit. We address these areas in turn.

**A. Charter Services through Charter Departments**

**1. Charter section 57: The Police Department**

Charter section 57 establishes the City’s Police Department.<sup>3</sup> The Charter does not describe particular City services the Department must provide to the City. The Municipal Code establishes the authority and duties of the Department as follows:

The Police Department shall be charged with the preservation of the peace and order of the City, the protection of all persons and property, and the enforcement of all penal ordinances and laws. The Chief of Police shall at the request of the City Attorney, serve any process issued in any civil action to which the City of San Diego is a party. Adequate patrol of all parts of the City, so far as the size of the force permits, shall be maintained. Modern methods of criminal identification, including fingerprinting and the filing of criminal records of all criminals, shall be employed. Efforts shall be made to cooperate with other cities, counties, states and federal criminal agencies in all matters pertaining to the apprehension and identification of criminals.

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<sup>2</sup> The Charter also obligates City officers (for example, the City Attorney (Charter §§ 40 and 40.1); Chief Financial Officer (Charter § 39); City Auditor (Charter § 39.2); and City Treasurer (Charter § 45)) to fulfill many functions for the City itself. The City Council is obligated to fund these Charter-required officer functions in much the same manner described in this Report for City functions. The public benefits from these services as well, albeit indirectly. We limit this Report to City services impacting the public more directly.

<sup>3</sup> Charter section 57 provides in pertinent part: “The Police Department shall consist of a Chief of Police and such other officers, members and employees as the Council may from time to time prescribe by ordinance. ¶ The Chief of Police shall be appointed by the City Manager and the appointment shall be confirmed by a majority of the Council . . . . ¶ The Chief of Police, with the approval of the City Manager, shall appoint, direct and supervise the personnel, subject to Civil Service regulation, have charge of the property and equipment of the department and exercise all powers and duties provided by general laws or by ordinance of the Council. The Chief of Police shall have all power and authority necessary for the operation and control of the Police Department.”

SDMC § 22.0601.

In addition, the City also places many additional duties upon the Police Department throughout the Municipal Code, such as issuing and enforcing alarm user permits (SDMC §§33.3701-33.3723); enforcing pay telephone regulations (SDMC §§ 54.0501-54.0508); and inspecting many regulated businesses, to name just a few. Because the Police Department is a Charter-created City department, the City Council may not eliminate all funding for its services. Moreover, insofar as the department's services involve police protection, the City Council must give priority to those services in the budgetary process as prescribed by Charter section 11.1.

## 2. Priority for Police Protection: Charter Section 11.1

Charter section 11.1 was added by voters and amended twice in three elections in 1980 and 1986 to address competing voter initiatives which would have removed the City Council's discretion to establish salary levels for police and firefighters. In pertinent part, Charter section 11.1 provides:

The City Council shall annually adopt an ordinance establishing salaries for all City employees. The City Council shall adopt this ordinance not later than May 30 of each year after considering all relevant evidence including but not limited to the needs of the citizens of the City of San Diego for municipal services, the ability of the citizens to pay for those services, local economic conditions and other relevant factors as the Council deems appropriate. The City Council shall give priority in the funding of municipal services to the need of the citizens for police protection in considering adoption of this salary ordinance and the annual budget ordinance.

We have reviewed the voter materials and the history of the section and interpret the plain language of section 11.1 in context.<sup>4</sup> The section reaffirms the City Council's broad discretion to set the *salaries* of all City employees "after considering all relevant evidence including but not limited to the needs of the citizens of the City of San Diego for municipal services, the ability of the citizens to pay for those services, local economic conditions and other relevant factors as the Council deems appropriate." Charter § 11.1. However, in considering the

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<sup>4</sup> Voters at the June, 1980 election were told adding section 11.1 to the Charter would allow taxpayers "the right to say no to exorbitant [sic] wage demands," by holding elected officials "directly accountable" for their salary and budget decisions. Ballot Pamp. Mun. Prim. Elec. (June 3, 1980), argument in favor of Prop. A at C-2. They were also told that "Police protection must be San Diego's first priority;" that "**police protection must come first in budgeting;**" that "**police protection gets the first call on city resources;** *Id.* (emphasis in the original). In November 1980, voters were told that "[w]e can't afford to tie employee pay to that of other cities." Ballot Pamp. Mun. Gen. Elec. (Nov. 4, 1980) argument in favor of Prop. L at L-2. In June 1986, voters were told that "**POLICE PROTECTION WILL REMAIN SAN DIEGO'S FIRST PRIORITY;**" that the proposition "reaffirms the clear direction voters gave to the City Council in 1980." Ballot Pamp. Mun. Prim. Elec. (June 3, 1986) argument in favor of Prop E.

final adoption of the salary ordinance *and* the annual budget, the Council discretion is more limited. In that process, the Council must “give priority in the funding of municipal services to the need of the citizens for police protection.” *Id.* The voter materials also make plain that the priority given police *protection* compared to other municipal services does not necessarily require priority in setting police *salary* or compensation. In addition, this requirement for priority in funding municipal services applies only to *police* protection and not to other municipal services.

### 3. Charter Section 58: The Fire Department

Charter section 58 establishes the Fire Department.<sup>5</sup> The section also establishes the function and authority of the Department as “the protection of the lives and property of the people of the City from fire.” Charter § 58. The Municipal Code designates the Fire Department as a City Department, and establishes its Chief as the City’s Fire Marshall, imposing on him or her responsibility for enforcing the City and California Fire Code. *See* SDMC §§ 22.1801; 25.0202 to 25.0205; *see* Fire Code, SDMC, Ch. 5, Art. 5. Because the Fire Department is Charter-created, the City Council may not eliminate all funding for the public services it must specifically provide, namely, protection from “fire.”<sup>6,7</sup>

#### B. Charter Section 26.1 Services

Charter section 26.1 provides: “It shall be the obligation and responsibility of The City of San Diego to provide public works services, water services, building inspection services, public health services, park and recreation services, library services, and such other services and programs as may be desired, under such terms and conditions as may be authorized by the Council by ordinance.” Section 26.1 was added by voters in 1963 in conjunction with the repeal

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<sup>5</sup> Charter section 58 provides in pertinent part: “The Fire Department shall consist of a Chief of the Fire Department and such other officers, members and employees as the Council may from time to time prescribe by ordinance. ¶ The Chief of the Fire Department shall be appointed by the City Manager and the appointment shall be confirmed by a majority of the Council . . . The Chief of the Fire Department shall have all power and authority necessary for the operation and control of the Fire Department and the protection of the lives and property of the people of the City from fire. ¶ The Chief of the Fire Department, with the approval of the City Manager, shall direct and supervise the personnel. Members of the Fire Department shall be subject to all the Civil Service provisions of this Charter contained in Article VIII . . . .”

<sup>6</sup> Although the Charter places no obligation upon the City to provide water rescue services, the City has elected to provide lifeguard services for many years. The Municipal Code places duties upon City lifeguards and recognizes them as members of the City’s retirement system. *See* SDMC §§ 63.20.2(b), 63.20.4, 63.20.6, 24.0103, and 24.0403. The Mayor and the City Council retain control over whether such water-related services should continue to be provided, subject to any existing contractual or externally imposed requirements.

<sup>7</sup> In addition, voters approved the City’s establishment and operation of a paramedic service to be funded by a 10% surcharge on their property taxes in the November 1977 election (Proposition C). By initiative ordinance in the November 1982 election (Proposition G), voters also required the Paramedic Transport System to meet certain criteria. Since 1997, the City provides emergency medical services under an agreement with the County and by contract.

of a number of Charter-created City Departments, some of which had previously provided these services.<sup>8</sup>

Although section 26.1 names certain services, it does not particularly define what each of them might include. When section 26.1 was added to the Charter, voters were expressly told the changes were “not intending in any way to eliminate present city departments or present city services, but the flexibility and economy obtained by removal of obsolete and useless charter language will make the government more efficient and promote economy in the long run.” Ballot Pamp. Mun. Prim. Elec. (Sept. 17, 1963) at 37, argument in favor of Prop. R. Accordingly, we look to the services provided by those former Charter Departments for guidance.

### **1. Public Works Services**

Former Charter section 46 established the former Department of Public Works, providing that it “shall have charge of streets, sewers,<sup>9</sup> refuse collection and disposal,<sup>10</sup> public buildings, shops, and the manufacturing, storing and repairing of automotive equipment, machinery, tools and other implements and equipment used by the City.”

### **2. Building Inspection Services**

Former Charter section 59 established the Department of Inspection, which concerned itself with building inspections. Inspectors could enter buildings “for the purpose of inspecting the same and for enforcing the provisions of the building code, and all other laws and ordinances in force in the City relating to the duties of the Department in the preservation of the safety of the public.” Charter § 59.

### **3. Water Services**

Charter section 53 previously established a separate Water Department. The title to the section was changed to Water “Utilities” in the 1963 election. That amendment was intended to clarify Charter language and put “the authority to supervise the water utility in the hands of the Manager.” Ballot Pamp. Mun. Prim. Elec. (Sept. 17, 1963) at 36, argument in favor of Prop. R. The utility is responsible for water supply, treatment, and distribution. *See* 1992 City Att’y MOL 493 (92-67; Aug. 10, 1992) at 495-499.

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<sup>8</sup> The Charter Departments (and Offices) repealed at the September 17, 1963 Municipal Primary Election included: the Manager’s Control Department (Charter § 33); the Budget Officer (Charter § 34); the City Engineer (Charter § 36); the Directors of Departments (Charter § 44); the Department of Public Works- Street Superintendent (Charter § 46); the Harbor Department (Charter § 54); the Department of Inspection (Charter § 59); the Department of Public Health (Charter § 60); the Social Service Department (Charter § 61); and the Library Department (Charter § 63).

<sup>9</sup> *See* 1992 City Att’y MOL 493 (92-67; Aug. 10, 1992) at 497-499 (historical discussion about sewer services in San Diego).

<sup>10</sup> *See* City Att’y MOL No. 2010-16 (July 16, 2010)(discussing the People’s Ordinance, refuse collection, Charter sections 26 and 26.1).

Charter section 53 requires the City to “include in the annual appropriation ordinance for the Water Utility Fund provision for operating and maintenance costs; replacements, betterments, and expansion of facilities; payments necessary for obtaining water from the Colorado River; any other contractual obligations; reserves for future expansion of water utility plant; reserves for future water purchases.” Costs of these services are currently funded through a rate-based system.

#### 4. Park and Recreation Services

Charter section 55 was amended essentially into its current form in the 1963 election, deleting the Park and Recreation Commission as a Charter Commission; deleting references to the Park and Recreation Director; and giving responsibility over park and recreation services to the City Manager. Ballot Pamp. Mun. Prim. Elec. (Sept. 17, 1963) at 29, Ballot Question Prop. Q. The intent however was that “[n]either the . . . Commission, nor the Director. . . nor the Department will be removed from city Government.” *Id.* at 31, argument in favor of Prop. Q.

Charter Section 55 sets no specific levels of park and recreation services. It gives the City Manager “the control and management of parks, parkways, plazas, beaches, cemeteries, street trees, landscaping of City-owned property, golf courses, playgrounds, recreation centers, recreation camps and recreation activities held on any City playgrounds, parks, beaches and piers, which may be owned, controlled or operated by the City,” as well as the authority to enforce regulations regarding their use and protection. *Also see*, SDMC §§ 22.1502, 22.1801, 22.1501 and 22.1503.<sup>11</sup> It also gives the Manager “the management, control, preservation, regulation, improvement and embellishment of all public burial grounds and cemeteries belonging to the City, and the sale of lots therein.” Charter § 55.<sup>12</sup>

#### 5. Library Services

Former Charter section 63, establishing the Library Department and the Library Commission was repealed by Proposition P in the 1963 election. It was not “intended that there will be any change in the present organization or management of the departments deleted, or of citizen boards attached thereto.” Ballot Pamp. Mun. Prim. Elec. (Sept. 17, 1963) at 28, argument in favor of Prop. P at 29. The former section required the Library Department to have “such central and branch libraries and reading rooms and have such subordinate officers and employees as shall be authorized by ordinance” and gave the City Librarian management and control over the libraries; authority to establish rules and regulations for Library property; and purchasing power subject to the Annual Appropriation Ordinance. Former Charter § 63.

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<sup>11</sup> Council Policy 100-19 also declares that “basic neighborhood amenities, including active use parks and recreation centers, are important priorities and should be adequately funded to serve the needs of their communities.” It directs the City Manager to reflect “this priority for these parks and recreation facilities . . . in the annual budget proposed to the City Council each fiscal year.” *Id.*

<sup>12</sup> We address the maintenance of cemetery graves and lots required under Charter section 55 separately.

REPORT TO THE  
COMMITTEE ON  
BUDGET AND FINANCE

The Library Department is designated a City Department in the Municipal Code, which also creates the Board of Library Commissioners. SDMC §§ 22.1801 and 26.0301. The Municipal Code requires the City Council to make “any appropriation for general library operation, maintenance and supplies in accordance with Council Policy 100-19.” SDMC § 22.0228. The Council Policy leaves the ultimate discretion for funding to the City Council, while recognizing that the Municipal Code requires the City Manager to include library funding “in an amount equal to up to 6% of the general fund” in the annual budget proposal. Council Policy 100-19. The Municipal Code requirement may be suspended by the Council in any fiscal year, if the City Manager asks for the suspension after determining anticipated revenues “will be insufficient to maintain existing City services necessary for preserving the health, safety, and welfare of the citizens.” SDMC § 22.0228(d) and (e).

## **6. Public Health Services**

Former section 60 established a City Department of Public Health. Former sections 60 and 60.2<sup>13</sup> were repealed in the 1963 election by Proposition R. The 1963 election materials indicated the City’s “health services ha[d] been consolidated in the county Health Department for the past decade.” Ballot Pamp. Mun. Prim. Elec. (Sept. 17, 1963) argument in favor of Prop R. at 37. Accordingly, the public health services required by section 26.1 have been assumed and are now provided by the County of San Diego.

### **C. Other Charter Required Services**

#### **1. Charter Section 55: Cemetery Maintenance**

Charter section 55 requires in part that:

At least twenty percent of the net proceeds from the sale of all cemetery lots shall be deposited with the City Treasurer and be kept in a fund to be known as the Cemetery Perpetuity Fund. This fund shall be administered by the Funds Commission and shall be invested in such income-producing securities as the Funds Commission may decide. The principal of the perpetuity fund (subject to such accretion or diminution as may result from investing the same) shall not be available for meeting expenses for maintenance or upkeep of the cemeteries in any manner whatsoever. All income derived from the investment of the moneys in said perpetuity fund, together with the balance of the sale price of said lots not placed in the perpetuity fund, shall be expended in the maintenance and upkeep of the cemeteries and the perpetual care and upkeep of all graves and lots in said cemeteries.

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<sup>13</sup> Section 60.2 had authorized a contract with the County of San Diego to provide the City’s public health services.

Section 55 also provides that if the investment income from funds in the Cemetery Perpetuity Fund is insufficient that “the Council shall annually appropriate from other revenues an amount sufficient to enable the City to provide perpetual care and upkeep of all graves and lots in the cemeteries.” If the investment income is more than is required for the care and upkeep however, “the Council may direct that the excess . . . be used for any other municipal purpose.” *Id.*

## **2. Charter Section 55.2: Limit on Mission Bay and Regional Parks Budgeting for Operations and Maintenance**

San Diego voters approved the addition of section 55.2 to the San Diego Charter at the November 2008 election. Section 55.2 requires the City to distribute revenues received from City-owned property in Mission Bay Park in a particular manner. A threshold amount goes to the City’s general fund and excess lease revenue is allocated by equation to two special funds: the San Diego Regional Park Improvement Fund; and the Mission Bay Park Improvement Fund. This office explained the allocation process in a memorandum in 2010. City Att’y Memorandum MS No. 2010-17(Dec. 10, 2010). The money in the special funds may only be used for particular purposes, none of which are operational or maintenance (with one exception related to deferred maintenance which is also a capital improvement). Charter §§ 55.2(c), (c)(1)(G), (d) and (e); City Att’y Memorandum MS No. 2009-12 (Dec. 4, 2009) (2009 Memorandum).

However, as we also explained in the 2009 Memorandum, Charter section 55.2(g) places limits on funding for park operations and maintenance in Mission Bay and the Regional Parks.

Section 55.2(g) provides:

The annual budgets allocated for park operations and maintenance in the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks* shall not be reduced at a greater rate or increased at a lesser rate relative to the overall annual budget of park and recreation as a result of monies available hereunder.

“Essentially, this section prohibits the City from reducing the annual budgets for operations and maintenance for the Mission Bay Park and the Regional Parks at a different rate than the overall annual Park and Recreation budget *because of* the money in the Improvements Funds made available to these parks by the application of Charter section 55.2.” 2009 Memorandum at 1.

## **3. Charter Section 64: Support of Educational and Cultural Institutions**

Charter Section 64 provides in part that the “Council shall annually make appropriations for the support of all institutions of an educational, scientific, historical and cultural character, and which have a tendency to promote the welfare of the City and its inhabitants.” The section goes on to limit the type of institutions which must receive some funding to only those “which

are now or which may hereafter be controlled by The City of San Diego and partially or wholly operated and maintained by said City for the benefit of its inhabitants.” Charter § 64. This provision has been part of the Charter since 1931, and its requirements have been less than clear from the outset. *See* 1939 Op. City Att’y 271 at 273-274 (Aug. 9, 1939) (section “might well be clarified and made more definite and specific.”).

The section originally applied to institutions within Balboa Park and was “the only authorization the City has to make contributions for the maintenance and support of institutions of this character which are controlled by the City.” 1940 Op. City Att’y 231 (July 5, 1940) This Office determined the institutions had no ability to legally obligate the City to pay for services or supplies for which they had separately contracted. To the extent the City did appropriate any funds for their maintenance, the City was obligated to maintain control of that funding, and any disbursements of those appropriations must be made by and through the Park Department. *Id.* If there are current appropriations made under this section, we will address individual questions upon request.<sup>14</sup>

#### **4. Section 103.1a: Environmental Growth Fund**

The City has an Environmental Growth Fund into which the City must deposit “25 percent of all moneys derived from the revenues accruing to the City from any franchises for the transmission and distribution of gas, electricity and steam within the City of San Diego.” Charter § 103.1a. “[T]wo-thirds of the moneys paid into the Environmental Growth Fund shall be used exclusively as debt service for bonds of any nature issued for the acquisition, improvement and maintenance of open space to be used for park or recreational purposes.” *Id.* The remainder over the debt service, or the entire amount after debt service ends, “shall be used . . . exclusively for the purpose of preserving and enhancing the environment of the City of San Diego in whatever manner is deemed appropriate by the City Council of The City of San Diego.” *Id.*

## **II. THE MAYOR AND CITY COUNCIL HAVE DISCRETION TO SET LEVELS OF FUNDING FOR SERVICES**

As we have seen, the City Council is not free to eliminate *all* funding for the public services described in these Charter sections, because the Charter obligates the City to provide them. The Charter requires the Council to give priority to police protection when funding municipal services, and may limit reductions to maintenance and operations funding in Mission Bay and the Regional Parks. It also requires that certain revenues be used for particular services,

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<sup>14</sup> More recently, the City Council established a separate method for funding various City Arts, Culture and Community Festivals through Transient Occupancy Tax (TOT) revenues. SDMC §§ 26.0701-26.0728, 35.0101 to 35.0138; Council Policy 100-03.

such as cemetery maintenance or environmental purposes, or improvements in Mission Bay and the Regional Parks.<sup>15</sup>

This brings us to whether the City *must* spend a *specific amount* of money on any given service. There are always exceptions to this rule, such as requirements imposed by court orders, contractual agreements, or particularly-earmarked spending, — but the answer to that question is generally no. The reason: cities require flexibility and are necessarily provided broad authority to determine how taxpayer dollars should be spent to meet taxpayer needs. That is why city charters and statutes rarely, if ever, specify what level of funding is necessary for any service.

The San Diego Charter is no exception. It provides broad discretion to City leaders to fund City services, and to set City salaries in an integrated budgetary process. The very essence of that discretion is the power and the responsibility to make “comparisons, choices, judgments, and evaluations.” *Braman v. State of California*, 28 Cal. App. 4th 344, 351(1994) (citing *Thompson v. County of Alameda*, 27 Cal. 3d 741, 749 (1980)).

While the City Council may not eliminate *entirely* the City services or functions required by the Charter, the City Council is *not* required to fund every request for funding at whatever service level requested. “[N]o doubt . . . most heads of governmental offices[] would understandably prefer to determine for himself the funding and personnel to be allocated to the agency for which he is responsible . . . . The chaos that would result if each agency of government were allowed to dictate to the legislative body the amount of money that should be appropriated to that agency, or its staffing and salary levels, is readily apparent. The budgetary process entails a complex balancing of public needs in many and varied areas with the finite financial resources available for distribution among those demands. It involves interdependent political, social and economic judgments which cannot be left to individual officers acting in isolation; rather, *it is, and indeed must be, the responsibility of the legislative body to weigh those needs and set priorities for the utilization of the limited revenues available.*” *County of Butte*, 176 Cal. App. 3d at 699 (emphasis added).

Accordingly, determining the appropriate level of funding for municipal services, which the Charter obligates the City to provide, generally rests within the discretion of the Mayor and City Council as part of the Charter’s integrated budgetary process.

### **III. SPECIFIC STATE AND FEDERAL LAW REQUIREMENTS SHOULD BE ADDRESSED DURING THE BUDGET PROCESS**

We have been asked to include in our analysis any services required by state or federal law. The scope of that request is far beyond what we can accomplish in this document in timely

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<sup>15</sup> The Council has separately expressed certain priorities for funding library and park and recreation services by ordinance or Council Policy. These priorities are not Charter mandated, and in general may be changed by Council action.

fashion. This does not mean that state and federal law requirements have no impact on the City's budget. They do.

For example, the City must comply with requirements of the Americans with Disability Act and the various regulations promulgated under that federal law and its amendments. To name just two state law requirements, the City must comply with the California Public Records Act (Cal. Gov't Code §§ 6250-6276.48); and with the state laws obligating it to create a planning agency and to fund it. Cal. Gov't Code §§ 65100, 65104;<sup>16</sup> also Charter § 41(c), SDMC §111.0202. The City must also comply with federal and state environmental laws and regulations. For example, there are the federal permits administered by the California Regional Water Quality Control Board regulating stormwater discharges. *See discussion* 1995 City Att'y MOL 648, 649-651 (95-68, Sept. 25, 1995); SDMC §§ 43.0301 – 43.0312. Compliance is funded through the General Fund.<sup>17</sup> In addition to various federal and state law requirements imposed upon the City, the City voluntarily receives grants, and enters into contracts with private or public groups or agencies, which also may require compliance with state or federal laws impacting the City's budget.

This Office can provide more specific analysis if the Council has particular questions, as we recently did in assessing the responsibility for sidewalk maintenance and repair. *See City Att'y MOL No. 2011-01*(Jan. 28, 2011). In addition, the City Council may also request the various City Departments to provide it with any unique requirements for services imposed upon the City's budget by applicable state or federal laws, when the Departments present their annual budget requests.

### CONCLUSION

The City Charter obligates the City to directly provide its citizens with a number of municipal services. They include police protection; fire protection; public works services (including streets, sewers, refuse collection and disposal, public buildings, shops, and the manufacturing, storing and repairing of automotive equipment, machinery, tools and other implements and equipment used by the City); water services (water supply, treatment and distribution); building inspection services (enforcement of the building code and preserving public safety); public health services (assumed and provided by the County of San Diego); park and recreation services; and library services. Charter section 11.1 requires the Council to "give priority in the funding of municipal services to the need of the citizens for police protection," when it considers the final adoption of the salary ordinance and the annual budget.

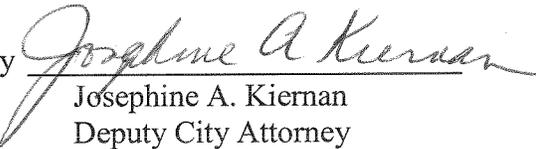
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<sup>16</sup> The City may recover planning agency funding by imposing "fees to support the work of the planning agency, [which] . . . shall not exceed the reasonable cost of providing the service . . . in accordance with Section 66016." Cal. Gov't Code § 65104.

<sup>17</sup> The City also complies with federal permits for sewer system discharges to the ocean. Compliance with that permit is funded through a rate-based system, not the General Fund. Unlike sewer fees, courts have held that fee imposition related to stormwater compliance must comply with Proposition 218, which requires public approval. *Howard Jarvis Taxpayers Assn. v. City of Salinas*, 98 Cal. App. 4th 1351 (2002); *but see* Cal. Health & Safety Code § 5471; 84 Op. Cal. Att'y Gen. 61 (2001).

In addition, the Charter requires the use of particularly designated funds for the perpetual care and upkeep of graves and lots in City cemeteries; to preserve and enhance the environment of San Diego; and for specific purposes in Mission Bay and the Regional Parks. It also ties funding for maintenance and operations in the Mission Bay and the Regional Parks to the general funding for City parks and recreation; and authorizes the City to support institutions of an educational, scientific, historical and cultural character, which the City controls and partially or wholly operates and maintains for the benefit of its inhabitants.

JAN I. GOLDSMITH, CITY ATTORNEY

By   
Josephine A. Kiernan  
Deputy City Attorney

JAK:als  
RC-2011-10  
cc: Mayor Jerry Sanders  
Andrea Tevlin, Independent Budget Analyst



COUNTY OF SAN DIEGO  
 MEMORANDUM OF AGREEMENT NUMBER 7260  
 between  
 HEALTH AND HUMAN SERVICES AGENCY (HHS) /  
 PUBLIC HEALTH SERVICES (PHS), LAND USE AND ENVIRONMENT GROUP (LUEG)  
 DEPARTMENT OF ENVIRONMENT HEALTH and QUALITY (DEHQ)  
 and  
 CITY OF SAN DIEGO

AMENDMENT NUMBER 02

This is the second Amendment to the Memorandum of Agreement (MOA) made between the County of San Diego (County) by and through its Health and Human Services Agency (HHS) Public Health Services Division and its Land Use and Environmental Group (LUEG) Department of Environmental Health and Quality (DEHQ) and the City of San Diego (City). The parties to this agreement may be referred to herein collectively as the "parties" or individually as a "party".

The parties entered into the MOA on January 2, 2020, to provide ensure update and clarify their contractual relationship related to public and environmental health services. This Amendment is to modify information to retain current relevance to changing services and ordinances.

Amendment Effective Date: Date all parties have signed.

A. The MOA 7260 between County of San Diego and City of San Diego shall be amended as follows:

1. **Section Recitals:** Replace third paragraph with "WHEREAS, subsequent to the Second Basic Agreement State laws have directly authorized the County to administer certain environmental health programs throughout the County, and the County created the position of Director of Environmental Health to administer and enforce environmental health programs and to oversee a separate County Department of Environmental Health and Quality (DEHQ); and"
2. **Section 1, Administration of Agreement:** Amend contact information as follows:

2.1. County contacts:

<p><u>County of San Diego</u></p> <p><b>HHS-PPHS</b></p> <p>Wilma J. Wooten, M.D., M.P.H. Public Health Officer</p> <p>Elizabeth A. Hernandez, Ph.D. Director</p> <p>5469 Kearny Villa Rd, San Diego CA 92123 <a href="mailto:Wilma.Wooten@sdcounty.ca.gov">Wilma.Wooten@sdcounty.ca.gov</a></p> <p><b>LUEG-DEHQ</b></p> <p>Amy Harbert, MBA Director</p> <p>Heather Buonomo Divisions Director</p> <p>5500 Overland Ave, San Diego CA 92123 <a href="mailto:Amy.Harbert@sdcounty.ca.gov">Amy.Harbert@sdcounty.ca.gov</a></p>
---

2.2. City contact:



City of San Diego  
 Kristina Peralta  
 Deputy Chief Operating Officer  
 202 C Street, 9A, San Diego, CA 92101  
 619-236-6214  
[KPeralta@sandiego.gov](mailto:KPeralta@sandiego.gov)

3. **Section 2.2:** Replace with “The County, through its Director of the Department of Environmental Health and Quality (DEHQ) or designee, shall:”
4. **Section 2.2.1:** Replace first sentence with “Implement and enforce State environmental health laws and regulations, as amended or adopted by the State within the City, which the County’s DEHQ is mandated by law or otherwise authorized by the State to administer county-wide.”
5. **Section 2.2.2:** Replace last sentence with “Section 2 of Exhibit A sets forth these environmental health programs as of the effective date of this Agreement, with specific information on the scope of their implementation by DEHQ within the City.”
6. **Section 2.3.1:** Replace with “Continue to vest full authority in the County’s Public Health Officer and DEHQ to perform all functions identified in Section 2.1 and 2.2., respectively and pursuant to California Health and Safety Code sections 101375-101380 implemented by City Council Resolution R-312024 (Nov.5, 2018).”
7. **Section 2.3.5:** Replace with “Ensure cooperation by City staff with the County Department of Public Health and DEHQ in the performance of public health and environmental health functions within the City, including compliance with orders and directives issued by the Public Health Officer.”
8. **Section 2.3.6:** Replace first sentence with “Submit to the City Council, on an ongoing and as-needed basis, proposed Municipal Code revisions to (1) remove provisions that purport to authorize or require the Public Health Officer, Director of Public Health, or DEHQ to provide any public health or environmental health service, or to administer or enforce within the City any public or environmental health program, which is not within the scope of this Agreement; and (2) to amend any provisions related to programs that are within the scope of this Agreement as needed to conform to the terms of this Agreement.”
9. **Section 2.3.8:** Replace with “Refer complaints received by the City to the County concerning County-administered programs included within this Agreement, including complaints about unpermitted food vendors, mosquito breeding, or businesses operating without a Certified Unified Program Agency permit for hazardous materials and waste.”
10. **Section 2.4.3:** Replace first sentence with “The County’s Director of Environmental Health and Quality and the City’s Chief Operating Officer (or Deputy Chief Operating Officer designee) shall be the primary liaisons for communications, and collaboration for environmental health matters.”
11. **Section 2.4.4:** Replace with “The County’s Public Health Officer and Director of Environmental Health and Quality, or their respective designees, shall both participate in communication and collaboration on emerging incidents when the participation of both County officials are necessary under the specific circumstances.”



12. **Section 2.4.6:** Add “The parties shall promptly respond to inquiries and correspondence within a reasonable time frame.”
13. **Section 5:** Add a new section 5 with HHSA’s standard language, “A Trauma Informed System”.
14. **Sections 6 through 13:** Renumbered sections to be consistent with adding a new Section 5.
15. **Section 12:** Replace with “Biennial Review: County and City shall jointly review this Agreement every two (2) years to determine whether any amendments to this Agreement are necessary and to evaluate programs within the scope of this Agreement and new public health and environmental health programs implemented that may require appropriate amendments to this Agreement.”
16. **Section 14:** Add “**Attachments to Agreement:**
  - 14.1. Exhibit A: Environmental Health Programs to be Administered and Enforced by the County Department of Environmental Health and Quality (DEHQ) in the City of San Diego (City).
  - 14.2. Exhibit B: Obsolete and Out-of-Date City Ordinance Provisions to be Repealed or Updated.”
17. **Section 15:** Add “Information Privacy and Security Provisions: RESERVED”.
18. Add:
 

“Remainder of this page is intentionally left blank.  
For signatures, see Amendment Page 02.”
19. Page Footer has been modified to include the County’s assigned MOA identification number and Modification (Amendment) number, and standard formatting.
  - B. Replace Exhibit A to MOA 7260, dated 12/02/2019, with Exhibit A dated “March 2023” per Page Footer.
  - C. Replace Exhibit B to MOA 7260, dated 12/02/2019, with Exhibit B dated “March 2023” per Page Footer.
  - D. All other provisions of the MOA remain in full force and effect.

*Remainder of this page is intentionally left blank.*



COUNTY OF SAN DIEGO

Dated: 6-19-2023

By: *Helen N. Robbins-Meyer*  
HELEN N. ROBBINS-MEYER  
Interim Chief Administrative Officer

COUNTY OF SAN DIEGO ATTORNEY

Dated: 6/1/2023

By: *Ken Hart*

CITY OF SAN DIEGO

Dated: 15 May 23

By: *Eric Dargan*  
ERIC K. DARGAN  
CHIEF OPERATING OFFICER

CITY OF SAN DIEGO ATTORNEY  
Approved as to Form and Legality:

Dated: May 16, 2023

By: *Kate*

EXHIBIT "A"

ENVIRONMENTAL HEALTH PROGRAMS TO BE ADMINISTERED AND ENFORCED  
BY THE COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY  
(DEHQ) IN THE CITY OF SAN DIEGO (CITY)

NOTE: Program lists are approximate and as of the date of execution of this Agreement. See Section 2.2 of the Agreement for applicability provisions.

**SECTION 1: PROGRAMS IMPLEMENTED COUNTY-WIDE AS MANDATED OR AUTHORIZED BY STATE LAW**

Note: Some of these programs have local enhancements as described in Section 3 of this Exhibit.

Body Art facilities and events

Certain onsite wastewater treatment systems (per a California Regional Water Quality Control Board-approved local plan)

Certified Unified Program Agency (CUPA) programs per HSC Division 20, Ch. 6.11.

Note: In San Diego County, medical waste regulation and corrective action oversight are CUPA programs.

Inspection of detention facilities

Methamphetamine laboratory closure and remediation oversight

Organized camps

Public pools

Radiation health

Recycled water system plan review and cross connection inspections

Retail food safety (California Retail Food Code)

Sewage haulers and sewage hauling vehicles

State small water systems

Note: Although DEHQ is responsible for this program County-wide, there are currently no "state small water systems" with 5 to 14 connections within the City

State Beach Act beach water quality testing, advisories, warnings and closures

Note: Some cities do additional voluntary testing, which they fund

Underground storage tank release investigation and remediation oversight

Vector control

Voluntary contamination site assessment and remediation oversight

Water well and monitoring well construction and destruction

**SECTION 2: PROGRAMS SET OUT IN SUBSECTION (e) OF SECTION 1276 OF  
TITLE 17 OF THE CALIFORNIA CODE OF REGULATIONS**

NOTE: 17 CCR 1276(e) provides only brief descriptions as quoted below. Implementing agencies determine their program scopes in the context of other State, county and city programs. The scopes of these programs as interpreted by DEHQ, both in the City and County, are described briefly below.

17 CCR 1276(e)(1) "Food"

This program is implemented by the County Department of Environmental Health and Quality (DEHQ) at the retail level based on the California Retail Food Code and supplemental local ordinances. It is implemented for wholesale food warehouses county-wide based on an ordinance enacted by the County of San Diego Board of Supervisors.

17 CCR 1276(e)(2) "Housing and institutions"

The City of San Diego implements its own housing program.

DEH inspects jails and detention facilities under a State mandate.

17 CCR 1276(e)(3) "Radiological health in local jurisdictions contracting with the State Department of Health to enforce the Radiation Control Law pursuant to Section 25600-25654 and Sections 25800-25876, Health and Safety Code"

DEHQ implements aspects of this program county-wide under a contract with the California Department of Public Health (CDPH). The County of San Diego reserves the right to discontinue this program, because it is not fully funded by the State.

17 CCR 1276(e)(4) "Milk and dairy products in local jurisdictions maintaining an approved milk inspection service pursuant to Section 32503, Food and Agricultural Code"

This program is not implemented by County DEHQ.

17 CCR 1276(e)(5) "Water oriented recreation"

Implementation county-wide by DEHQ is limited to the public pools program and State Beach Act, beach and bay water quality testing, advisories, warnings and closures.

17 CCR 1276(e)(6) "Safety"

DEHQ's implementation of safety is limited to the State law programs that are covered by this Agreement.

17 CCR 1276(e)(7) "Vector control"

Implemented by the County, through DEHQ, exercising the powers of a vector control district county-wide pursuant to State law and agreements with incorporated cities. This program includes disease surveillance, mosquito control, fly control on commercial poultry ranches, counselling on rat control, and abatement orders. It does not include direct rat control except at DEHQ's discretion if an abatement order issued to legally responsible parties is not satisfied. This program is funded by assessments collected on property tax bills, not by fees.

17 CCR 1276(e)(8) "Wastes management"

DEHQ regulates hazardous waste generators including generator treatment of hazardous waste and generator corrective action as a county-wide CUPA program. DEHQ does not enforce existing obsolete City standards that predate the CUPA program, see Exhibit B.

The City is its own Solid Waste Local Enforcement Agency and is responsible for its own solid waste management activities.

17 CCR 1276(e)(9) "Water supply"

Pursuant to State law, DEHQ regulates "state small water systems" with between five and 14 service connections, county-wide. DEHQ oversight of potable water well construction includes requiring and reviewing initial testing for potability.

17CCR 1276(e)(10) "Air sanitation"

DEHQ does not implement air quality control programs.

17 CCR 1276(e)(11) "Additional environmentally related services and programs as required by the County Board of Supervisors, City Council, or Health District Board"

This provision is implemented through the programs described in Sections 3 and 4 of this Exhibit. The City may not impose additional programs on the County without the County's agreement. The "Health District Board" no longer exists.

17 CCR 1276(e)(12) "And may include land development and use"

Implementation county-wide by DEHQ is limited to oversight of wells, borings, and onsite wastewater treatment systems.

**SECTION 3: PROGRAMS ESTABLISHED BY THE COUNTY BOARD OF SUPERVISORS BY ORDINANCES THAT ARE APPLICABLE COUNTY-WIDE**

Note: These programs are based on County powers as described. Some relate to programs listed in Section 1, also as described.

Exploratory boring (non-water) construction and destruction

Note: State law mandates these standards for water wells, and authorizes similar local requirements for borings

Retail food catering local options [hand sinks; refrigeration]Retail food Microenterprise Home Kitchen Operation (MEHKO) options [Food Safety Manager certificate; potable water testing; food storage locations; number of MEHKOs per residence]

Water well and monitoring well data collection

Note: State law mandates the water well program listed in Section 1. DEHQ data submission requirements for wells and borings are a related local enhancement applicable county-wide.

Wholesale food warehouses

Note: DEHQ inspections of food warehouses supplement State inspections, to better protect public health.

**SECTION 4: LOCAL ENHANCEMENT TO STATE-LAW BASED PROGRAMS, SUPPORTED BY PARALLEL LOCAL ORDINANCES**

Note: These programs are implemented in the City as in the County. All are expressly authorized in the CRFC as "local" options. In each city, these programs depend on a city ordinance that provides for DEHQ administration.

Food facility grading

Food handler trainer qualification

Food handler training and testing

Mobile food facility grading



**MEMORANDUM OF AGREEMENT 7260**

**EXHIBIT B**

**OBSOLETE AND OUT-OF-DATE  
CITY ORDINANCE PROVISIONS TO BE REPEALED OR UPDATED**

**REPEAL, OR RETAIN AS A CITY-RUN PROGRAM**

**Municipal Code Sections**

Barber shops, beauty parlors	42.0201-0206
Massage businesses and technicians	42.0215
Peep Show Establishment	42.0216
Bathhouses	42.0401-0424
"Reduction" operations	42.0501-0505
Pool halls	42.0601-0603
Pet shops	42.0701-0706
Fowls, rabbits and pigeons	42.0708-0709
Nuisance dogs (odors, barking)	42.0712
Alcoholic beverage warning signs	42.1001-1005
Manure transport and storage	44.0204
Animals	44.0301, 44.0303, 44.0304, 44.0308, 44.0309-0309.7

**UPDATE: REPLACE CURRENT MUNICIPAL CODE PROVISIONS WITH ADOPTION BY  
REFERENCE OF COUNTY CODE PROVISIONS**

Medical wastes	42.1201
Sewage disposal systems	42.0301-0304
Hazardous waste establishments	42.0801-0807
Disclosure of hazardous materials	42.0901-0915

**RESTRUCTURE AND UPDATE**

**Municipal Code Sections**

Diseased pet disposal	42.0711
Marijuana	42.1301-1304 and 42.1501-1510
Wells and borings	43.0201-0219
Cesspools, septic tank, subsurface disposal system	44.0211-0225
Rat control / Rat infestations	44.0342, 43.0344, 43.0346, 43.0351
Public swimming pools	44.0501-0503

EXHIBIT "C"



# CITY OF SAN DIEGO

## Annex L Emergency Public Information

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**FOR OFFICIAL USE ONLY (FOUO):** All portions of this document are deemed by the City of San Diego Office of Homeland Security to be records of homeland security preparedness and are exempt from public disclosure by Section 6254(aa) of the California Government Code.

## TABLE OF CONTENTS

I. INTRODUCTION.....2

II. CONCEPT OF OPERATIONS .....4

III. ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES.....7

IV. ADMINISTRATION, FINANCE, AND LOGISTICS .....7

V. ANNEX DEVELOPMENT AND MAINTENANCE.....8

VI. AUTHORITIES AND REFERENCES .....8

ATTACHMENT A: ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES.....10

ATTACHMENT B: COMMUNICATIONS DEPARTMENT EMERGENCY ACTIVATION  
 PROTOCOL.....13

ATTACHMENT C: MEDIA ACCESS REGULATIONS.....16

ATTACHMENT D: EMERGENCY PUBLIC INFORMATION PRIORITIES .....18

## I. INTRODUCTION

### A. Purpose

This Annex to the City of San Diego Emergency Operations Plan (EOP) identifies procedures and responsibilities to ensure the release of timely and accurate information during an emergency. This Annex references and aligns to the City's base EOP and other cited references, but it may be used as a standalone document.

### B. Scope

This Annex is to be used in the event of any type of emergency to deliver coordinated, prompt, reliable information to the whole community. This Annex amplifies the content of the City's base EOP by providing information related to emergency public information.

This annex does not address Public Alert/Warning Notifications, it is in the scope for Annex I – Communications.

### C. Whole Community Approach

The City of San Diego is committed to achieving and fostering a whole community emergency management system that is fully inclusive of individuals with disabilities and others with access and functional needs. For further details on our whole community approach to emergency management, which includes the integration of inclusive emergency management practices, refer to the Basic Plan.

### D. Planning Assumptions

Assumptions indicate areas where adjustments to this Annex may be needed as the facts of the incident become known. The following assumptions were made in developing this Annex:

- The public will want information on response actions to take.
- The media will demand information about the situation.
- The number of media personnel responding to the emergency will depend on the magnitude of the incident.
- The local media will cooperate with officials in disseminating information to the public.
- The public will turn to local area news and social media outlets as sources of information and guidance.
- The public may act on information from local and area news and social media sources.
- There may be times when disaster strikes without warning and the public information systems are unable to react rapidly enough.
- Rumors across all media and social media platforms are expected during any emergency.
- All available methods of information collection and dissemination are operational. This includes internet, email services, electronic notification systems, and print, radio, and TV broadcasts.
- A percentage of the population is non-English speaking and may be hearing or vision impaired. Information will have to be made available in multiple formats and languages as appropriate.

### **E. Policies and Guidelines**

Information is disseminated according to the following policies:

- The public has a right and need to know lifesaving and other important information related to emergencies or disasters, and the information will be delivered in accessible communication formats as it is approved for public dissemination.

The following guidelines are in effect:

- All copyright information necessary for emergency public information will be cited and approved by the originator prior to use.
- All available communication resources and methods will be used to reach all segments of the population, including those individuals with disabilities and others with access and functional needs.

## **II. CONCEPT OF OPERATIONS**

### **A. Activation**

This Annex is activated during an emergency that requires activation of the City's EOC.

The Mayor's Policy Group guides and directs City-level emergency operations, and generally forms when the City EOC is activated. The Policy Group consists of the following individuals:

- Mayor
- Chief Operating Officer
- Legal representation as determined by the Mayor
- Other key individuals as determined by the Mayor

Within 24 hours of the Policy Group's formation during an emergency, the Office of Homeland Security will inform the Council President and the Director of Legislative Affairs of the Policy Group's specific composition for that incident.

### **B. Public Information Coordination and Dissemination**

When the City Emergency Operations Center (EOC) is activated, the City EOC Lead PIO will function as the overall incident's Lead PIO. The Lead PIO will coordinate public information messaging with the Incident Command Posts (ICPs), Department Operations Centers (DOCs), the EOC, the City Joint Information Center (JIC) if activated, and the Operational Area (i.e. County) JIC if activated (see the following section for more information on the JIC).

The Lead PIO will work with ICPs, DOCs, and the director(s) of responding department(s) to collect and prepare facts and forward the information to the Policy Group, via the EOC Director, for situational awareness, review, and approval for public release. The Policy Group may delegate public information release authority to any public official it designates (e.g. EOC Director, Lead EOC PIO, Communications Department Director, etc.); however, if delegation of such authority is not explicitly granted for any incident or emergency, then the Policy Group will retain public information release authority.

Upon approval by the Policy Group or a designated official, the EOC Lead PIO will disseminate the approved information to various stakeholders including JICs (if activated), other jurisdictions, media, and the City Council. Such emergency-related public information will typically be disseminated through the following means:

- Written media releases to news services
- Messages on City TV

- Press conferences and announcements by PIOs and senior elected and appointed officials.
- KOGO 600 AM and KLSD 1360 AM radio stations (Emergency Alert System)
- San Diego County Emergency at <http://www.sdcountyemergency.com/>
- 2-1-1 San Diego at <http://www.211sandiego.org/>
- City of San Diego website at <http://www.sandiego.gov>
- City social media

### **C. Joint Information Center**

For large and complex incidents, emergency public information may be collected and disseminated through a Joint Information Center (JIC). A JIC supports the ICPs, DOCs, and EOCs, and a JIC may operate at a single jurisdiction level and/or at a multi-jurisdictional level.

As an accepted and recognized practice dating to at least 2006, the City of San Diego, the County of San Diego, and all other neighboring cities and regional stakeholders have consented to operating and supporting one JIC at the Operational Area (OA)-level (i.e. County-level) level during major emergencies. The OA JIC is an established facility that is maintained by the County of San Diego and co-located with the County of San Diego EOC. When the OA JIC is activated, the City will designate one or more PIOs to work from the OA JIC to ensure consistent messaging throughout the affected area.

At the decision of the Policy Group, the City may operate its own City-level JIC for any emergency or incident, either in addition to the OA JIC or in the unlikely event that the OA JIC is not available or operational when needed. The location and arrangement of the City JIC will vary depending upon the situation and upon

the staff and resources available; currently, the City does not have an established JIC facility.

Considerable attention to accurate coordination and consistent messaging must be taken if the City operates its own JIC in addition to the OA JIC, since a City JIC has inherent authority to release public information without approval by the OA JIC.

As stated above, any messaging released from the JIC (City-level or OA-level) on behalf of the City of San Diego must first be approved by the Policy Group or a designated official.

### **III. ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES**

Refer to Attachment A for organization and assignment of responsibilities.

### **IV. ADMINISTRATION, FINANCE, AND LOGISTICS**

#### **A. Mutual Aid**

The City will request mutual aid and fill mutual aid requests in accordance with SEMS and NIMS.

#### **B. Unassigned City Personnel**

There are some City personnel who do not have a specific task assignment during an emergency. They are automatically designated by State Law as Disaster Service Workers during an emergency and serve in the response effort. (CA Government Code Title I, Division 4, Chapter 8; CA Labor Code Part I, Division 4, Chapters 1 and 10)

### C. Vital Records Retention and Preservation

City of San Diego Administrative Regulation (AR) 85.30, *Vital Records Retention and Preservation*, January 2015, provides comprehensive guidance on retaining and preserving vital records that are necessary to reconstruct and continue City operations in the event of a disaster or emergency.

By establishing and implementing the procedures specified in AR 85.30, the City will be able to perform important functions, duties, and responsibilities in the aftermath of a disaster or emergency.

## V. ANNEX DEVELOPMENT AND MAINTENANCE

The Office of Homeland Security is responsible for coordinating the development and maintenance of this Annex, consistent with the EOP Base Plan paragraph VII.

## VI. AUTHORITIES AND REFERENCES

- U.S. Department of Homeland Security *National Incident Management System*, December 2008
- FEMA *Comprehensive Preparedness Guide (CPG) 101, Version 2.0*, November 2010
- California *Standardized Emergency Management System*, November 2009
- CA Penal Code 409.5 and 409.6, *Crimes Against the Public Peace*, January 1997
- CA Assembly Bill 2311, September 2016

- *County Operational Area Emergency Operations Plan*, September 2014
- City of San Diego Municipal Code Chapter 5, Article 1, Division 1, *Public Emergency Procedures*, April 2016
- City of San Diego Administrative Regulation 1.01, *Emergency Operations Procedures*, October 2010
- City of San Diego *Emergency Operations Plan*, March 2011

## ATTACHMENT A: ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES

### Policy Group

During major emergencies at the direction of the Mayor and/or the Policy Group, which includes Chief Operating Officer, legal representation as determined by the Mayor, and other key individuals as determined by the Mayor, will guide and direct City emergency operations, including providing public information messaging direction and approval. This group is also responsible for acting as a liaison for City Council and City Council Staff.

### Lead PIO

During emergencies that involve opening of the EOC, a Communications Department designee assumes the position of Lead PIO. The Lead PIO will be supported by other PIOs assigned to the EOC and when activated coordinate with other PIOs and staff assigned to the ICP, DOCs, and OA JIC. Responsibilities of the Lead PIO include:

- Designates location and time for media briefings that occur from the EOC.
- Manages inquiries from the media and the public; emergency public information; rumor monitoring and response; and media relations that occur at the EOC.
- Coordinates with PIOs in the field to assure a unified media response.
- Manages functions required to gather, verify, coordinate, and disseminate accurate, accessible, and timely information related to the incident.

### EOC PIOs

Staff assigned as EOC PIOs perform the following:

- Write and distribute information to the media at the direction of the EOC Lead PIO. Distribute news releases to EOC personnel including staff who answer public inquiry phone lines.

- Monitor broadcasts, radio, print, and social media channels and act to correct any inaccurate information being reported.
- Monitor traditional media sources and social media reports to determine the degree to which the public is taking appropriate action as disseminated in public messages and relay this information to the Lead PIO.
- Other duties of PIO staff could include scheduling news conferences, arranging for appropriate accommodations for access and functional needs related to public information, and preparing briefing information and materials for City officials.
- As applicable to the incident, post information on the City's various social media channels, City TV, and disseminate information internally to City staff.
- Coordinate with the Human Resources on City internal communications and broadcast emails for employee notification, per Annex I.

### **DOC PIOs**

PIOs working from the City DOCs coordinate and share information with the Lead PIO and EOC PIO staff to develop and maintain a common operating picture of public information activities. The EOC PIO Room may serve as a space for coordination and collaboration among the Lead PIO, PIO staff and DOC PIOs.

### **Communications Department**

During large scale events, additional staff and resources may be required to meet the need for the public and employee's information. As needed, the Communications Director will appoint additional staff to work from the Communications Department. See Attachment B for the Communications Department Emergency Activation Protocol.

**City Spokesperson - JIC**

The Director of Communications or designee will act as an official spokesperson for the City, if needed, and will direct efforts of other official City spokespersons.

**Mayor's Staff**

During large scale events, members of the Mayor's staff will participate in the Policy Group and act as a liaison between the Policy Group and the City Council and the City Council Staff. They will also coordinate when the Mayor is requested at press conferences or press events.

## ATTACHMENT B: COMMUNICATIONS DEPARTMENT EMERGENCY ACTIVATION PROTOCOL

### Introduction

The City of San Diego Communications Department Emergency Activation Protocol is the roadmap for response during any City disaster or emergency. Because disasters are always unplanned and require a unique response, this plan must be flexible and quickly adaptable.

Communications Department employees must be prepared for changes and use their best judgment when the plan doesn't make sense under the circumstances and/or their supervisors are unavailable.

Part of the mission of this protocol is to ensure that information moves quickly and accurately to the public, employees and news organizations. During an emergency, this quick and accurate flow of information becomes critical. Therefore, all employees of the Communications Department are considered essential personnel during an emergency.

### What Communications Department staff should do when an emergency occurs

#### Prepare to go to work immediately.

When an emergency occurs, all Communications Department staff should prepare to report to work immediately, unless your family or home is threatened. It is important that all Communications Department personnel have a family emergency plan, so you can go to work knowing your family is safe.

#### Contact your supervisor.

During an emergency, communication with staff is crucial. After you have been assured that your family is safe, call your direct supervisor if you have not already

been called. Do not wait to be called. A disaster may shut down some phone services, so be prepared to try more than one phone number.

Keep your Communications Department phone list nearby at all times and save Communications Department contacts in your mobile device, such as a smartphone. If phone service is overwhelmed, the use of text messages is an alternate means of communication. If you cannot reach your supervisor, try to call one of the other managers.

Your supervisor will assign your duties. Communications Department employees with City-issued cell phones are always expected to have these items with them. Communications Department employees should have their go-kits with items such as extra batteries and car chargers close, perhaps in your bag or car.

During peak fire conditions or anticipated dangerous conditions, such as a large storm, selected staff will be assigned to have a laptop with them during non-business hours. Video staff will keep go-kits in their cars to provide video coverage in the field as needed.

### **Report to your designated location.**

When you have an assignment from your supervisor, report for duty as soon as possible. If you cannot reach any supervisor, and you have a designated location or responsibility to assume, report there immediately.

If you can't get to work, let someone know as soon as possible. Coordinate working from home on your laptop if possible.

### **Communications Department Roles and Responsibilities**

The primary job of Communications Department staff is to make emergency information available to the public as soon as possible.

### **EOC Activation**

When the EOC is activated, the Communications Department Director will be notified via Alert San Diego and/or by the EOC Director and/or COO. Depending on the severity of the incident, the Communications Department Director will contact the Deputy Director for resource support and coordination.

As the incident progresses, a work schedule will be created by the Lead PIO in coordination with the EOC Director and/or EOC Liaison/Coordinator to provide for coverage for designated shifts.

EOC PIO staff will take their go-kits to the EOC or in the field, depending on staff assignments. The go-kit includes a laptop, cell phone with chargers, emergency flash drive, medication, food items, comfortable, but professional clothing including sweaters if needed, and any other personal items to make the EOC shift as productive and comfortable as possible.

Desktop computers and phones in the Communications Department and EOC are also available for the Communications Department use. Laptops, tablets, and cameras are kept in the Communications Department during normal business hours or at home during non-business hours as assigned.

## ATTACHMENT C: MEDIA ACCESS REGULATIONS

The following are extracts from Government Codes and Regulations relating to the granting of access to the media to closed or restricted areas during incidents and disasters:

### California Penal Code Section 409.5

(a) Whenever a menace to the public health or safety is created by a calamity including a flood, storm, fire, earthquake, explosion, accident, or other disaster, officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, any officer or employee of the Department of Forestry and Fire Protection designated a peace officer by subdivision (g) of Section 830.2, any officer or employee of the Department of Parks and Recreation designated a peace officer by subdivision (f) of Section 830.2, any officer or employee of the Department of Fish and Game designated a peace officer under subdivision (e) of Section 830.2, and any publicly employed full-time lifeguard or publicly employed full-time marine safety officer while acting in a supervisory position in the performance of his or her official duties, may close the area where the menace exists for the duration thereof by means of ropes, markers, or guards to any and all persons not authorized by the lifeguard or officer to enter or remain within the enclosed area. If the calamity creates an immediate menace to the public health, the local health officer may close the area where the menace exists pursuant to the conditions set forth in this section.

(b) Officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, officers of the Department of Fish and Game designated as peace officers by subdivision (e) of Section 830.2, or officers of the Department of Forestry and Fire Protection designated as peace officers by subdivision (g) of Section 830.2 may close the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating any calamity enumerated in this section or any riot or other civil disturbance to any and all unauthorized persons pursuant to the conditions set forth in this section whether or not the field command post or other command post is located near to the actual calamity or riot or other civil disturbance.

(c) Any unauthorized person who willfully and knowingly enters an area closed pursuant to subdivision (a) or (b) and who willfully remains within the area after receiving notice to evacuate or leave shall be guilty of a misdemeanor.

(d) Nothing in this section shall prevent a duly authorized representative of any news service, newspaper, or radio or television station or network from entering the areas closed pursuant to this section.

(Amended by Stats. 1996, Ch. 305, Sec. 44. Effective January 1, 1997.)

## ATTACHMENT D: EMERGENCY PUBLIC INFORMATION PRIORITIES

### Lifesaving/Health preservation instructions:

- What to do (and why)
- What not to do (and why)
- Information (for parents) on status and actions of schools (if in session)
- Hazardous/contaminated/congested areas to avoid
- Curfews
- Road, bridge, freeway overpass, and dam conditions, and alternate routes to take
- Evacuation routes
- Instructions (including what to do if vehicle breaks down)
- Arrangements for persons without transportation
- Shelter Locations
- Location of mass care/medical/coroner facilities, food, safe water
- Status of hospitals
- First aid information or health precautions (e.g., for those with respiratory problems)
- Pet/Animal shelter location
- Emphasize the use of 2-1-1 San Diego. 9-1-1 should only be used for life-threatening emergencies. Stress to out-of-area media that people should NOT make calls into the area to keep phone lines open for emergency calls
- Instructions/precautions about utility use, sanitation, how to turn off utilities
- Essential services available--hospitals, grocery stores, banks, pharmacies, etc.

- Weather hazards (if appropriate)

### **Emergency Status Information**

Contact information for PIO staff will be provided at the initial activation and at shift changes. The information will be posted in WebEOC for agencies involved in the incident. For the media, it will be posted in incident updates and in advisories sent to the media at shift changes.

The public will be directed to get information through the following:

- Follow City's social media pages
- Call 2-1-1 San Diego for all inquiries other than life-threatening issues
- Visit the San Diego County Emergency Homepage, [www.sdcountyemergency.com](http://www.sdcountyemergency.com), for comprehensive information about the incident
- Download the County Emergency App to receive push notifications with information about the incident and a link to the City's social media

City employees will be provided information about the incident, such as whether to report to work, closed facilities, etc. on an employee page on the City website as well as on CityNet, the City's intranet site. Information will also be available on the Employee Call-In recorded message. Information posted on these outlets will follow the protocol described in the previous section, emergency public information priorities.

### **Other Useful Information**

Usually this type of information will be released in the Post-Emergency Period because of lack of time and other priorities during other phases:

- State/Federal assistance available
- LACs (Local Assistance Centers) opening and closing dates/times/locations
- Historical events of this nature
- Charts/photographs/statistics from past events

- Human interest stories
- Acts of heroism
- Historical value of property damaged/destroyed

**MEMORANDUM OF AGREEMENT**  
**FOR PUBLIC HEALTH AND ENVIRONMENTAL HEALTH SERVICES**

**Parties**

This Memorandum of Agreement (Agreement) is made between the County of San Diego (County) and the City of San Diego (City). The parties to this Agreement may be referred to herein collectively as the "parties" or individually as a "party."

**Recitals**

WHEREAS, in 1953, the parties entered into a Basic Agreement for Public Health Services to be Furnished by the County to the City (Basic Agreement); and

WHEREAS, the Basic Agreement was superseded in 1977 by a Second Basic Agreement for Public Health Services to be Furnished by the County's Public Health Officer (Second Basic Agreement), which included environmental health services as a component of the County's Public Health Services; and

WHEREAS, subsequent to the Second Basic Agreement State laws have directly authorized the County to administer certain environmental health programs throughout the County, and the County created the position of Director of Environmental Health to administer and enforce environmental health programs and to oversee a separate County Department of Environmental Health (DEH); and

WHEREAS, on November 5, 2018, the City reaffirmed by resolution its commitment to a contractual relationship with the County for public health services; and

WHEREAS, on March 27, 2019, the parties entered into a Memorandum of Understanding to Ensure Awareness and Appropriate Response in Public Health Matters (MOU); and

WHEREAS, the parties desire to update and clarify their contractual relationship related to public health and environmental health services within the City, where those services depend in part on a contractual relationship; and,

WHEREAS, this Agreement will supersede the Basic Agreement, Second Basic Agreement, and the MOU.

THEREFORE, in consideration of the foregoing recitals and the mutual covenants and promises set forth below, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Administration of Agreement:** Each party identifies the following individual to serve as the authorized administrative representative for that party. Either party may change its administrative representative by notifying the other party in writing of such change. Any such change will become effective upon the receipt of such notice by the other party to this Agreement. Notice of a change to the authorized representative shall be sent to each party as follows:

ORIGINAL

ATTACHMENT 2

ORIGINAL

ORIGINAL

<u>County</u>	<u>City</u>
Wilma J. Wooten, M.D., M.P.H. Health Officer & Director Public Health Services County of San Diego, Health & Human Services Agency Wilma.Wooten@sdcounty.ca.gov	Robert A. Vacchi Deputy Chief Operating Officer City of San Diego RAVacchi@sandiego.gov

## 2. Parties' Responsibilities:

2.1. The County, through its Public Health Officer, or designee, shall:

- 2.1.1. Promptly, in timing and manner determined at the sole discretion of the Public Health Officer, notify and update the City's authorized administrative representative about communicable disease outbreaks that may affect them.
- 2.1.2. Make any relevant information available to the City's authorized administrative representative regarding communicable disease outbreaks, as authorized by State and federal law.
- 2.1.3. Have the ability to issue orders and directives for the City to take any action necessary to control the spread of a communicable disease within the City.
- 2.1.4. Include the City's authorized administrative representative on the County Policy Group when a local health emergency is declared and the public health incident has potential impact to the City.
- 2.1.5. Enforce relevant State and local laws related to public health.
- 2.1.6. Enforce orders, quarantine regulations, and rules and regulations issued by the California Department of Public Health.
- 2.1.7. Observe guidance from the Centers for Disease Control and Prevention.
- 2.1.8. Advise the City's authorized administrative representative on routine public health matters, emerging public health concerns, disasters, and communicable diseases that may impact the City and its population.
- 2.1.9. Be authorized to provide, to the same extent as provided in the unincorporated areas of the county, public health services within the City such as:
  - 2.1.9.1. Collection, tabulation, and analysis of public health statistics.
  - 2.1.9.2. Health education programs.
  - 2.1.9.3. Communicable disease control and surveillance.
  - 2.1.9.4. Medical, nursing, educational, and other services to promote maternal and child health.
  - 2.1.9.5. Laboratory services.
  - 2.1.9.6. Services in nutrition.
  - 2.1.9.7. Services in chronic disease.
  - 2.1.9.8. Services directed to the social factors affecting health.
  - 2.1.9.9. Public health nursing services.

2.2. The County, through its Director of the Department of Environmental Health (DEH) or designee, shall:

- 2.2.1. Implement and enforce within the City, State environmental health laws and regulations, as amended or adopted by the State, which the County's DEH is mandated by law or otherwise authorized by the State to administer county-wide.



Section 1 of Exhibit A sets forth these programs as of the effective date of this Agreement.

- 2.2.2. Provide within the City, to the same extent as in the unincorporated county, the basic environmental health services set forth in Section 1276 of Title 17 of the California Code of Regulations, as may be amended. Section 2 of Exhibit A sets forth these environmental health programs as of the effective date of this Agreement, with specific information on the scope of their implementation by DEH within the City.
  - 2.2.3. Implement and enforce, within the City, environmental health programs established by the Board of Supervisors based on powers that apply county-wide. Any County enacted environmental health ordinance applicable county-wide shall declare that applicability within the ordinance. Section 3 of Exhibit A sets forth these programs as of the effective date of this Agreement.
  - 2.2.4. Where supported by a parallel City ordinance, administer and enforce within the City additional discretionary environmental health programs to the same extent implemented and enforced in the unincorporated areas of the county. Section 4 of Exhibit A sets forth these programs as of the effective date of this Agreement.
- 2.3. The City shall:
- 2.3.1. Continue to vest full authority in the County's Public Health Officer and DEH to perform all functions identified in Section 2.1 and 2.2, respectively and pursuant to California Health and Safety Code sections 101375-101380 implemented by City Council Resolution R-312024 (Nov. 5, 2018).
  - 2.3.2. The City shall communicate to the Public Health Officer any public health issues relating to the City's or the San Diego Housing Commission's provision of emergency or temporary shelters.
  - 2.3.3. Continue to take measures to preserve and protect the public health pursuant to State law and San Diego City Charter Section 26.1, and as implemented in San Diego Municipal Code provisions such as: Chapter 2, Article 2, Division 14 (Public Utilities Department, Public Works Department, Transportation and Stormwater Department, and Environmental Services Department); Chapter 5, Article 4, Division 2 (Weed, Rubbish and Waste Abatement); and Chapter 6, Article 6, Division 1 (Refuse).
  - 2.3.4. Promptly respond to orders and/or directives issued pursuant to Section 2.1.3 for information or action in which the County Public Health Officer has indicated there is a potential public health risk which will require the City to take steps to mitigate such risk. Action may require additional municipal services than what the City is currently providing.
  - 2.3.5. Ensure cooperation by City staff with the County Department of Public Health and DEH in the performance of public health and environmental health functions within the City, including compliance with orders and directives issued by the Public Health Officer.
  - 2.3.6. Submit to the City Council, on an ongoing and as-needed basis, proposed Municipal Code revisions to (1) remove provisions that purport to authorize or require the Public Health Officer, Director of Public Health, or DEH to provide any public health or environmental health service, or to administer or enforce within the City any public or environmental health program, which is not within the scope of this Agreement; and (2) to amend any provisions related to programs that are within the scope of this Agreement as needed to conform to the terms of this Agreement. Exhibit B provides a list of provisions identified as of the effective date



of this Agreement for City's consideration for repeal, retention as a City run program, update, or restructure and update.

- 2.3.7. For programs that are based on ordinances rather than State law, provide by ordinance that persons intending to engage in or engaged in regulated activities must seek and obtain plan approvals and permits as specified by the County, must comply with applicable County requirements and procedures, and must pay applicable fees and any assessed penalties.
  - 2.3.8. Refer complaints to the County received by the City concerning County-administered programs included within this Agreement, including complaints about unpermitted food vendors, mosquito breeding, or businesses operating without a Certified Unified Program Agency permit for hazardous materials and waste.
  - 2.3.9. Cooperate with the County to resolve violations of public health or environmental health programs that simultaneously implicate both City-administered and County-administered programs.
- 2.4. The parties shall:
- 2.4.1. Communicate, coordinate, and collaborate on public health and environmental health matters related to:
    - 2.4.1.1. Routine day to day operations as identified by the Centers for Disease Control and Prevention's ten essential services of public health across three core functions of assessment, policy development, and assurance.
    - 2.4.1.2. Emerging public health concerns that may lead to communicable disease outbreaks.
    - 2.4.1.3. Incidents, including:
      - 2.4.1.3.1. A disaster such as a manmade or natural catastrophe that causes or may lead to illness or loss of life.
      - 2.4.1.3.2. An outbreak which is an increase in number of communicable disease cases beyond what is normally expected in a geographic region. The City will rely on the County to provide notification related to outbreaks.
  - 2.4.2. The County's Deputy Public Health Officer and the City's Assistant Chief Operating Officer (or Deputy Chief Operating Officer designee) shall be the primary liaisons for communications, coordination and collaboration on public health matters. The parties shall notify each of any other designated liaisons.
  - 2.4.3. The County's Director of Environmental Health and the City's Assistant Chief Operating Officer (or Deputy Chief Operating Officer designee) shall be the primary liaisons for communications, and collaboration for environmental health matters. The parties shall notify each of any other designated liaisons.
  - 2.4.4. The County's Public Health Officer and Director of Environmental Health, or their respective designees, shall both participate in communication and collaboration on emerging incidents when the participation of both County officials are necessary under the specific circumstances.
  - 2.4.5. Communications are intended to be fluid and ongoing as determined by the circumstances requiring communications. Communications should be consistent with both the City of San Diego's Emergency Operations Plan Annex L (attached) and the County of San Diego's Emergency Operations Plan, including Annex E – Public Health Operations which can be accessed at [https://www.sandiegocounty.gov/content/sdc/oes/emergency\\_management/oes\\_jl\\_oparea.html](https://www.sandiegocounty.gov/content/sdc/oes/emergency_management/oes_jl_oparea.html) and as both may be subsequently amended from time to time.



2.5. Where authorized by State law, the County may recover costs associated with services provided within the City through fees and charges to persons served. For services that are based on City ordinances, City shall, by ordinance, authorize the County to assess fees and charges to fully recover associated costs from persons served, or notwithstanding any other provision of this Agreement, County will have no obligation to provide those services.

3. **Governing Law:** This Agreement shall be governed, interpreted, construed, and enforced in accordance with the laws of the State of California.
4. **Live Well San Diego Vision:** The County of San Diego, Health and Human Services Agency (HHSA), supports the *Live Well San Diego* vision of Building Better Health, Living Safely, and Thriving. *Live Well San Diego*, developed by the County of San Diego, is a comprehensive, innovative regional vision that combines the efforts of partners inside and outside County government to help all residents be healthy, safe, and thriving. All HHSA partners and contractors, to the extent feasible, are expected to advance this vision. Building Better Health focuses on improving the health of residents and supporting healthy choices. Living Safely seeks to ensure residents are protected from crime and abuse, neighborhoods are safe, and communities are resilient to disasters and emergencies. Thriving focuses on promoting a region in which residents can enjoy the highest quality of life. Since 2013, the City has been a recognized *Live Well San Diego* partner committing to efforts to improve the quality of life for its citizens.

Information about *Live Well San Diego* can be found on the County's website and a website dedicated to the vision:

- [http://www.sdcounty.ca.gov/hhsa/programs/sd/live\\_well\\_san\\_diego/index.html](http://www.sdcounty.ca.gov/hhsa/programs/sd/live_well_san_diego/index.html)
- <http://www.LiveWellSD.org>

5. **Third Party Beneficiaries Excluded:** This Agreement is intended solely for the benefit of the County and the City. Any benefit to any third party is incidental and does not confer on any third party to this Agreement any rights whatsoever regarding the performance of this Agreement. Any attempt to enforce provisions of this Agreement by third parties is specifically prohibited.
6. **Amendments to Agreement:** Any party may propose amendments to this Agreement by providing written notice of such amendments to the other party. This Agreement may only be amended by a written amendment signed by both parties.
7. **Severability:** If any terms or provisions of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term and provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and every other term and provision of this Agreement shall be valid and enforced to the maximum extent permitted by law.
8. **Full Agreement:** This Agreement supersedes the Basic Agreement, the Second Basic Agreement, the MOU, any other prior written or oral agreements concerning the public health and environmental health services and programs identified herein.



9. **Scope of Agreement:** This Agreement only applies to the services and programs described herein and does not set forth any additional current or future obligations or agreements between the parties, except that the parties may by written amendment amend the scope of this Agreement. Programs within the scope of this Agreement may be updated and new public health and environmental health programs implemented pending annual review and where appropriate amendments to this Agreement.
10. **Term:** This Agreement shall become effective on the date all of the parties have signed this Agreement and be in force until either party terminates this Agreement. If this Agreement is terminated without a superseding agreement, each party shall fulfill its obligations in accordance with State law.
11. **Annual Review:** County and City shall jointly review this Agreement annually to determine whether any amendments to this Agreement are necessary and to evaluate programs within the scope of this Agreement and new public health and environmental health programs implemented that may require appropriate amendments to this Agreement.
12. **Counterparts:** This Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument.

*Signature Page To Follow*

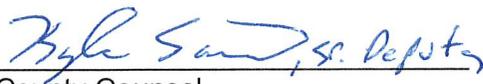


County of San Diego

Dated: 1-2-2020

By:   
Helen N. Robbins-Meyer  
Chief Administrative Officer,  
County of San Diego

Approved as to Form and Legality:

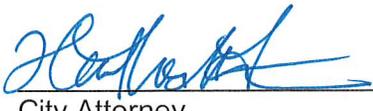
  
County Counsel

City of San Diego

Dated: 12/17/19

By:   
Kris Michell  
Chief Operating Officer,  
City of San Diego

Approved as to Form and Legality:

 Deputy City Attorney  
City Attorney  
December 18, 2019

Attachments:

- Exhibit A
- Exhibit B
- Exhibit C

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**EXHIBIT "A"**

**ENVIRONMENTAL HEALTH PROGRAMS TO BE ADMINISTERED AND ENFORCED  
BY THE COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH (DEH) IN THE  
CITY OF SAN DIEGO (CITY)**

**NOTE: Program lists are approximate and as of the date of execution of this Agreement. See Section 2.2 of the Agreement for applicability provisions.**

**SECTION 1: PROGRAMS IMPLEMENTED COUNTY-WIDE AS MANDATED OR AUTHORIZED BY STATE LAW**

Note: Some of these programs have local enhancements as described in Section 3 of this Exhibit.

Body Art facilities and events

Certain onsite wastewater treatment systems (per a California Regional Water Quality Control Board-approved local plan)

Certified Unified Program Agency (CUPA) programs per HSC Division 20, Ch. 6.11.

Note: In San Diego County, medical waste regulation and corrective action oversight are CUPA programs.

Inspection of detention facilities

Methamphetamine laboratory closure and remediation oversight

Organized camps

Public pools

Radiation health

Recycled water system construction and backflow prevention testing

Retail food safety (California Retail Food Code)

Sewage haulers and sewage hauling vehicles

Small water systems

Note: Although DEH is responsible for this program County-wide, there are currently no "small water systems" within the City

State Beach Act beach water quality testing, warnings and closures

Note: Some cities do additional voluntary testing, which they fund

Underground storage tank release investigation and remediation oversight

Vector control

Voluntary contamination site assessment and remediation oversight

Water well and monitoring well construction and destruction

## **SECTION 2: PROGRAMS SET OUT IN SUBSECTION (e) OF SECTION 1276 OF TITLE 17 OF THE CALIFORNIA CODE OF REGULATIONS**

NOTE: 17 CCR 1276(e) provides only brief descriptions as quoted below. Implementing agencies determine their program scopes in the context of other State, county and city programs. The scopes of these programs as interpreted by DEH, both in the City and County, are described briefly below.

### 17 CCR 1276(e)(1) "Food"

This program is implemented by the County Department of Environmental Health (DEH) at the retail level based on the California Retail Food Code and supplemental local ordinances. It is implemented for wholesale food warehouses county-wide based on an ordinance enacted by the County of San Diego Board of Supervisors.

### 17 CCR 1276(e)(2) "Housing and institutions"

The City of San Diego implements its own housing program.

DEH inspects jails and detention facilities under a State mandate.

### 17 CCR 1276(e)(3) "Radiological health in local jurisdictions contracting with the State Department of Health to enforce the Radiation Control Law pursuant to Section 25600-25654 and Sections 25800-25876, Health and Safety Code"

DEH implements aspects of this program county-wide under a contract with the California Department of Public Health (CDPH). The County of San Diego reserves the right to discontinue this program, because it is not fully funded by the State.

### 17 CCR 1276(e)(4) "Milk and dairy products in local jurisdictions maintaining an approved milk inspection service pursuant to Section 32503, Food and Agricultural Code"

This program is not implemented by County DEH.

### 17 CCR 1276(e)(5) "Water oriented recreation"

Implementation county-wide by DEH is limited to the public pools program and State Beach Act, beach and bay water quality testing, advisories and closures.

17 CCR 1276(e)(6) "Safety"

DEH's implementation of safety is limited to the State law programs that are covered by this Agreement.

17 CCR 1276(e)(7) "Vector control"

Implemented by the County, through DEH, exercising the powers of a vector control district county-wide pursuant to State law and agreements with incorporated cities. This program includes disease surveillance, mosquito control, fly control on commercial poultry ranches, counselling on rat control, and abatement orders. It does not include direct rat control except at DEH's discretion if an abatement order issued to legally responsible parties is not satisfied. This program is funded by assessments collected on property tax bills, not by fees.

17 CCR 1276(e)(8) "Wastes management"

DEH regulates hazardous waste generators including generator treatment of hazardous waste and generator corrective action as a county-wide CUPA program. DEH does not enforce existing obsolete City standards that predate the CUPA program, see Exhibit B.

The City is its own Solid Waste Local Enforcement Agency and is responsible for its own solid waste management activities.

17 CCR 1276(e)(9) "Water supply"

Pursuant to State law, DEH regulates "small water systems" with between five and 200 service connections, county-wide. DEH oversight of potable water well construction includes requiring and reviewing initial testing for potability.

17CCR 1276(e)(10) "Air sanitation"

DEH does not implement air quality control programs.

17 CCR 1276(e)(11) "Additional environmentally related services and programs as required by the County Board of Supervisors, City Council, or Health District Board"

This provision is implemented through the programs described in Sections 3 and 4 of this Exhibit. The City may not impose additional programs on the County without the County's agreement. The "Health District Board" no longer exists.

17 CCR 1276(e)(12) "And may include land development and use"

Implementation county-wide by DEH is limited to oversight of wells, borings, and onsite wastewater treatment systems.

**SECTION 3: PROGRAMS ESTABLISHED BY THE COUNTY BOARD OF SUPERVISORS BY ORDINANCES THAT ARE APPLICABLE COUNTY-WIDE**

Note: These programs are based on County powers as described. Some relate to programs listed in Section 1, also as described.

Exploratory boring (non-water) construction and destruction

Note: State law mandates these standards for water wells, and authorizes similar local requirements for borings

Retail food catering local options [hand sinks; refrigeration]

Note: The County Code has not yet been updated to integrate with 2018 State catering legislation (AB2524). Updates will retain preexisting County requirements related to hand washing sinks and refrigeration for catering, at host facilities.

Water well and monitoring well data collection

Note: State law mandates the water well program listed in Section 1. DEH data submission requirements for wells and borings are a related local enhancement applicable county-wide.

Wholesale food warehouses

Note: DEH inspections of food warehouses supplement State inspections, to better protect public health.

**SECTION 4: LOCAL ENHANCEMENT TO STATE-LAW BASED PROGRAMS, SUPPORTED BY PARALLEL LOCAL ORDINANCES**

Note: These programs are implemented in the City as in the County. All are expressly authorized in the CRFC as "local" options. In each city, these programs depend on a city ordinance that provides for DEH administration.

Food facility grading

Food handler trainer qualification

Food handler training and testing

Mobile food facility grading

**EXHIBIT "B"**  
**OBSOLETE AND OUT-OF-DATE**  
**CITY ORDINANCE PROVISIONS TO BE REPEALED OR UPDATED**

<b><u>REPEAL, OR RETAIN AS A CITY-RUN PROGRAM</u></b>	<b><u>Municipal Code Sections</u></b>
Barber shops, beauty parlors	42.0201-0206
Massage businesses and technicians	43.0215
Peep Show Establishment	43.0216
Bathhouses	42.0401-0424
"Reduction" operations	42.0501-0505
Pool halls	42.0601-0603
Pet shops	42.0701-0706
Fowls, rabbits and pigeons	42.0708-0709
Nuisance dogs (odors, barking)	42.0712
Alcoholic beverage warning signs	42.1001-1005
Manure transport and storage	44.0204
Animals	44.0301, 44.0303, 44.0304, 44.0308, 44.0309-0309.7

**UPDATE: REPLACE CURRENT MUNICIPAL CODE PROVISIONS WITH ADOPTION BY  
REFERENCE OF COUNTY CODE PROVISIONS**

Medical wastes	42.1201
Sewage disposal systems	42.0301-0304
Hazardous waste establishments	42.0801-0807
Disclosure of hazardous materials	42.0901-0915

**RESTRUCTURE AND UPDATE**

**Municipal Code Sections**

Diseased pet disposal

42.0711

Marijuana

42.1301-1304 and  
42.1501-1510

Wells and borings

43.0201-0219

Cesspools, septic tank, subsurface disposal system

44.0211-0225

Rat control / Rat infestations

44.0342, .0344, .0345,  
.0346, .0351

Public swimming pools

44.0501-0503

# CITY OF SAN DIEGO

## Annex L Emergency Public Information

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## TABLE OF CONTENTS

I. INTRODUCTION.....	2
II. CONCEPT OF OPERATIONS .....	4
III. ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES.....	7
IV. ADMINISTRATION, FINANCE, AND LOGISTICS.....	7
V. ANNEX DEVELOPMENT AND MAINTENANCE.....	8
VI. AUTHORITIES AND REFERENCES .....	8
ATTACHMENT A: ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES.....	10
ATTACHMENT B: COMMUNICATIONS DEPARTMENT EMERGENCY ACTIVATION PROTOCOL.....	13
ATTACHMENT C: MEDIA ACCESS REGULATIONS.....	16
ATTACHMENT D: EMERGENCY PUBLIC INFORMATION PRIORITIES.....	18

## **I. INTRODUCTION**

### **A. Purpose**

This Annex to the City of San Diego Emergency Operations Plan (EOP) identifies procedures and responsibilities to ensure the release of timely and accurate information during an emergency. This Annex references and aligns to the City's base EOP and other cited references, but it may be used as a standalone document.

### **B. Scope**

This Annex is to be used in the event of any type of emergency to deliver coordinated, prompt, reliable information to the whole community. This Annex amplifies the content of the City's base EOP by providing information related to emergency public information.

This annex does not address Public Alert/Warning Notifications, it is in the scope for Annex I – Communications.

### **C. Whole Community Approach**

The City of San Diego is committed to achieving and fostering a whole community emergency management system that is fully inclusive of individuals with disabilities and others with access and functional needs. For further details on our whole community approach to emergency management, which includes the integration of inclusive emergency management practices, refer to the Basic Plan.

### **D. Planning Assumptions**

Assumptions indicate areas where adjustments to this Annex may be needed as the facts of the incident become known. The following assumptions were made in developing this Annex:

- The public will want information on response actions to take.
- The media will demand information about the situation.
- The number of media personnel responding to the emergency will depend on the magnitude of the incident.
- The local media will cooperate with officials in disseminating information to the public.
- The public will turn to local area news and social media outlets as sources of information and guidance.
- The public may act on information from local and area news and social media sources.
- There may be times when disaster strikes without warning and the public information systems are unable to react rapidly enough.
- Rumors across all media and social media platforms are expected during any emergency.
- All available methods of information collection and dissemination are operational. This includes internet, email services, electronic notification systems, and print, radio, and TV broadcasts.
- A percentage of the population is non-English speaking and may be hearing or vision impaired. Information will have to be made available in multiple formats and languages as appropriate.

## E. Policies and Guidelines

Information is disseminated according to the following policies:

- The public has a right and need to know lifesaving and other important information related to emergencies or disasters, and the information will be delivered in accessible communication formats as it is approved for public dissemination.

The following guidelines are in effect:

- All copyright information necessary for emergency public information will be cited and approved by the originator prior to use.
- All available communication resources and methods will be used to reach all segments of the population, including those individuals with disabilities and others with access and functional needs.

## II. CONCEPT OF OPERATIONS

### A. Activation

This Annex is activated during an emergency that requires activation of the City's EOC.

The Mayor's Policy Group guides and directs City-level emergency operations, and generally forms when the City EOC is activated. The Policy Group consists of the following individuals:

- Mayor
- Chief Operating Officer
- Legal representation as determined by the Mayor
- Other key individuals as determined by the Mayor

Within 24 hours of the Policy Group's formation during an emergency, the Office of Homeland Security will inform the Council President and the Director of Legislative Affairs of the Policy Group's specific composition for that incident.

## **B. Public Information Coordination and Dissemination**

When the City Emergency Operations Center (EOC) is activated, the City EOC Lead PIO will function as the overall incident's Lead PIO. The Lead PIO will coordinate public information messaging with the Incident Command Posts (ICPs), Department Operations Centers (DOCs), the EOC, the City Joint Information Center (JIC) if activated, and the Operational Area (i.e. County) JIC if activated (see the following section for more information on the JIC).

The Lead PIO will work with ICPs, DOCs, and the director(s) of responding department(s) to collect and prepare facts and forward the information to the Policy Group, via the EOC Director, for situational awareness, review, and approval for public release. The Policy Group may delegate public information release authority to any public official it designates (e.g. EOC Director, Lead EOC PIO, Communications Department Director, etc.); however, if delegation of such authority is not explicitly granted for any incident or emergency, then the Policy Group will retain public information release authority.

Upon approval by the Policy Group or a designated official, the EOC Lead PIO will disseminate the approved information to various stakeholders including JICs (if activated), other jurisdictions, media, and the City Council. Such emergency-related public information will typically be disseminated through the following means:

- Written media releases to news services
- Messages on City TV

- Press conferences and announcements by PIOs and senior elected and appointed officials.
- KOGO 600 AM and KLSB 1360 AM radio stations (Emergency Alert System)
- San Diego County Emergency at <http://www.sdcountyemergency.com/>
- 2-1-1 San Diego at <http://www.211sandiego.org/>
- City of San Diego website at <http://www.sandiego.gov>
- City social media

### **C. Joint Information Center**

For large and complex incidents, emergency public information may be collected and disseminated through a Joint Information Center (JIC). A JIC supports the ICPs, DOCs, and EOCs, and a JIC may operate at a single jurisdiction level and/or at a multi-jurisdictional level.

As an accepted and recognized practice dating to at least 2006, the City of San Diego, the County of San Diego, and all other neighboring cities and regional stakeholders have consented to operating and supporting one JIC at the Operational Area (OA)-level (i.e. County-level) level during major emergencies. The OA JIC is an established facility that is maintained by the County of San Diego and co-located with the County of San Diego EOC. When the OA JIC is activated, the City will designate one or more PIOs to work from the OA JIC to ensure consistent messaging throughout the affected area.

At the decision of the Policy Group, the City may operate its own City-level JIC for any emergency or incident, either in addition to the OA JIC or in the unlikely event that the OA JIC is not available or operational when needed. The location and arrangement of the City JIC will vary depending upon the situation and upon

the staff and resources available; currently, the City does not have an established JIC facility.

Considerable attention to accurate coordination and consistent messaging must be taken if the City operates its own JIC in addition to the OA JIC, since a City JIC has inherent authority to release public information without approval by the OA JIC.

As stated above, any messaging released from the JIC (City-level or OA-level) on behalf of the City of San Diego must first be approved by the Policy Group or a designated official.

### **III. ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES**

Refer to Attachment A for organization and assignment of responsibilities.

### **IV. ADMINISTRATION, FINANCE, AND LOGISTICS**

#### **A. Mutual Aid**

The City will request mutual aid and fill mutual aid requests in accordance with SEMS and NIMS.

#### **B. Unassigned City Personnel**

There are some City personnel who do not have a specific task assignment during an emergency. They are automatically designated by State Law as Disaster Service Workers during an emergency and serve in the response effort. (CA Government Code Title I, Division 4, Chapter 8; CA Labor Code Part I, Division 4, Chapters 1 and 10)

### C. Vital Records Retention and Preservation

City of San Diego Administrative Regulation (AR) 85.30, *Vital Records Retention and Preservation*, January 2015, provides comprehensive guidance on retaining and preserving vital records that are necessary to reconstruct and continue City operations in the event of a disaster or emergency.

By establishing and implementing the procedures specified in AR 85.30, the City will be able to perform important functions, duties, and responsibilities in the aftermath of a disaster or emergency.

## V. ANNEX DEVELOPMENT AND MAINTENANCE

The Office of Homeland Security is responsible for coordinating the development and maintenance of this Annex, consistent with the EOP Base Plan paragraph VII.

## VI. AUTHORITIES AND REFERENCES

- U.S. Department of Homeland Security *National Incident Management System*, December 2008
- FEMA *Comprehensive Preparedness Guide (CPG) 101, Version 2.0*, November 2010
- California *Standardized Emergency Management System*, November 2009
- CA Penal Code 409.5 and 409.6, *Crimes Against the Public Peace*, January 1997
- CA Assembly Bill 2311, September 2016

- County *Operational Area Emergency Operations Plan*, September 2014
- City of San Diego Municipal Code Chapter 5, Article 1, Division 1, *Public Emergency Procedures*, April 2016
- City of San Diego Administrative Regulation 1.01, *Emergency Operations Procedures*, October 2010
- City of San Diego *Emergency Operations Plan*, March 2011

## ATTACHMENT A: ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES

### Policy Group

During major emergencies at the direction of the Mayor and/or the Policy Group, which includes Chief Operating Officer, legal representation as determined by the Mayor, and other key individuals as determined by the Mayor, will guide and direct City emergency operations, including providing public information messaging direction and approval. This group is also responsible for acting as a liaison for City Council and City Council Staff.

### Lead PIO

During emergencies that involve opening of the EOC, a Communications Department designee assumes the position of Lead PIO. The Lead PIO will be supported by other PIOs assigned to the EOC and when activated coordinate with other PIOs and staff assigned to the ICP, DOCs, and OA JIC. Responsibilities of the Lead PIO include:

- Designates location and time for media briefings that occur from the EOC.
- Manages inquiries from the media and the public; emergency public information; rumor monitoring and response; and media relations that occur at the EOC.
- Coordinates with PIOs in the field to assure a unified media response.
- Manages functions required to gather, verify, coordinate, and disseminate accurate, accessible, and timely information related to the incident.

### EOC PIOs

Staff assigned as EOC PIOs perform the following:

- Write and distribute information to the media at the direction of the EOC Lead PIO. Distribute news releases to EOC personnel including staff who answer public inquiry phone lines.

- Monitor broadcasts, radio, print, and social media channels and act to correct any inaccurate information being reported.
- Monitor traditional media sources and social media reports to determine the degree to which the public is taking appropriate action as disseminated in public messages and relay this information to the Lead PIO.
- Other duties of PIO staff could include scheduling news conferences, arranging for appropriate accommodations for access and functional needs related to public information, and preparing briefing information and materials for City officials.
- As applicable to the incident, post information on the City's various social media channels, City TV, and disseminate information internally to City staff.
- Coordinate with the Human Resources on City internal communications and broadcast emails for employee notification, per Annex I.

### **DOC PIOs**

PIOs working from the City DOCs coordinate and share information with the Lead PIO and EOC PIO staff to develop and maintain a common operating picture of public information activities. The EOC PIO Room may serve as a space for coordination and collaboration among the Lead PIO, PIO staff and DOC PIOs.

### **Communications Department**

During large scale events, additional staff and resources may be required to meet the need for the public and employee's information. As needed, the Communications Director will appoint additional staff to work from the Communications Department. See Attachment B for the Communications Department Emergency Activation Protocol.

**City Spokesperson - JIC**

The Director of Communications or designee will act as an official spokesperson for the City, if needed, and will direct efforts of other official City spokespersons.

**Mayor's Staff**

During large scale events, members of the Mayor's staff will participate in the Policy Group and act as a liaison between the Policy Group and the City Council and the City Council Staff. They will also coordinate when the Mayor is requested at press conferences or press events.

## **ATTACHMENT B: COMMUNICATIONS DEPARTMENT EMERGENCY ACTIVATION PROTOCOL**

### **Introduction**

The City of San Diego Communications Department Emergency Activation Protocol is the roadmap for response during any City disaster or emergency. Because disasters are always unplanned and require a unique response, this plan must be flexible and quickly adaptable.

Communications Department employees must be prepared for changes and use their best judgment when the plan doesn't make sense under the circumstances and/or their supervisors are unavailable.

Part of the mission of this protocol is to ensure that information moves quickly and accurately to the public, employees and news organizations. During an emergency, this quick and accurate flow of information becomes critical. Therefore, all employees of the Communications Department are considered essential personnel during an emergency.

### **What Communications Department staff should do when an emergency occurs**

#### **Prepare to go to work immediately.**

When an emergency occurs, all Communications Department staff should prepare to report to work immediately, unless your family or home is threatened. It is important that all Communications Department personnel have a family emergency plan, so you can go to work knowing your family is safe.

#### **Contact your supervisor.**

During an emergency, communication with staff is crucial. After you have been assured that your family is safe, call your direct supervisor if you have not already

been called. Do not wait to be called. A disaster may shut down some phone services, so be prepared to try more than one phone number.

Keep your Communications Department phone list nearby at all times and save Communications Department contacts in your mobile device, such as a smartphone. If phone service is overwhelmed, the use of text messages is an alternate means of communication. If you cannot reach your supervisor, try to call one of the other managers.

Your supervisor will assign your duties. Communications Department employees with City-issued cell phones are always expected to have these items with them. Communications Department employees should have their go-kits with items such as extra batteries and car chargers close, perhaps in your bag or car.

During peak fire conditions or anticipated dangerous conditions, such as a large storm, selected staff will be assigned to have a laptop with them during non-business hours. Video staff will keep go-kits in their cars to provide video coverage in the field as needed.

### **Report to your designated location.**

When you have an assignment from your supervisor, report for duty as soon as possible. If you cannot reach any supervisor, and you have a designated location or responsibility to assume, report there immediately.

If you can't get to work, let someone know as soon as possible. Coordinate working from home on your laptop if possible.

### **Communications Department Roles and Responsibilities**

The primary job of Communications Department staff is to make emergency information available to the public as soon as possible.

### **EOC Activation**

When the EOC is activated, the Communications Department Director will be notified via Alert San Diego and/or by the EOC Director and/or COO. Depending on the severity of the incident, the Communications Department Director will contact the Deputy Director for resource support and coordination.

As the incident progresses, a work schedule will be created by the Lead PIO in coordination with the EOC Director and/or EOC Liaison/Coordinator to provide for coverage for designated shifts.

EOC PIO staff will take their go-kits to the EOC or in the field, depending on staff assignments. The go-kit includes a laptop, cell phone with chargers, emergency flash drive, medication, food items, comfortable, but professional clothing including sweaters if needed, and any other personal items to make the EOC shift as productive and comfortable as possible.

Desktop computers and phones in the Communications Department and EOC are also available for the Communications Department use. Laptops, tablets, and cameras are kept in the Communications Department during normal business hours or at home during non-business hours as assigned.

## ATTACHMENT C: MEDIA ACCESS REGULATIONS

The following are extracts from Government Codes and Regulations relating to the granting of access to the media to closed or restricted areas during incidents and disasters:

### California Penal Code Section 409.5

(a) Whenever a menace to the public health or safety is created by a calamity including a flood, storm, fire, earthquake, explosion, accident, or other disaster, officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, any officer or employee of the Department of Forestry and Fire Protection designated a peace officer by subdivision (g) of Section 830.2, any officer or employee of the Department of Parks and Recreation designated a peace officer by subdivision (f) of Section 830.2, any officer or employee of the Department of Fish and Game designated a peace officer under subdivision (e) of Section 830.2, and any publicly employed full-time lifeguard or publicly employed full-time marine safety officer while acting in a supervisory position in the performance of his or her official duties, may close the area where the menace exists for the duration thereof by means of ropes, markers, or guards to any and all persons not authorized by the lifeguard or officer to enter or remain within the enclosed area. If the calamity creates an immediate menace to the public health, the local health officer may close the area where the menace exists pursuant to the conditions set forth in this section.

(b) Officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, officers of the Department of Fish and Game designated as peace officers by subdivision (e) of Section 830.2, or officers of the Department of Forestry and Fire Protection designated as peace officers by subdivision (g) of Section 830.2 may close the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating any calamity enumerated in this section or any riot or other civil disturbance to any and all unauthorized persons pursuant to the conditions set forth in this section whether or not the field command post or other command post is located near to the actual calamity or riot or other civil disturbance.

(c) Any unauthorized person who willfully and knowingly enters an area closed pursuant to subdivision (a) or (b) and who willfully remains within the area after receiving notice to evacuate or leave shall be guilty of a misdemeanor.

(d) Nothing in this section shall prevent a duly authorized representative of any news service, newspaper, or radio or television station or network from entering the areas closed pursuant to this section.

(Amended by Stats. 1996, Ch. 305, Sec. 44. Effective January 1, 1997.)

## ATTACHMENT D: EMERGENCY PUBLIC INFORMATION PRIORITIES

### Lifesaving/Health preservation instructions:

- What to do (and why)
- What not to do (and why)
- Information (for parents) on status and actions of schools (if in session)
- Hazardous/contaminated/congested areas to avoid
- Curfews
- Road, bridge, freeway overpass, and dam conditions, and alternate routes to take
- Evacuation routes
- Instructions (including what to do if vehicle breaks down)
- Arrangements for persons without transportation
- Shelter Locations
- Location of mass care/medical/coroner facilities, food, safe water
- Status of hospitals
- First aid information or health precautions (e.g., for those with respiratory problems)
- Pet/Animal shelter location
- Emphasize the use of 2-1-1 San Diego. 9-1-1 should only be used for life-threatening emergencies. Stress to out-of-area media that people should NOT make calls into the area to keep phone lines open for emergency calls
- Instructions/precautions about utility use, sanitation, how to turn off utilities
- Essential services available--hospitals, grocery stores, banks, pharmacies, etc.

- Weather hazards (if appropriate)

### **Emergency Status Information**

Contact information for PIO staff will be provided at the initial activation and at shift changes. The information will be posted in WebEOC for agencies involved in the incident. For the media, it will be posted in incident updates and in advisories sent to the media at shift changes.

The public will be directed to get information through the following:

- Follow City's social media pages
- Call 2-1-1 San Diego for all inquiries other than life-threatening issues
- Visit the San Diego County Emergency Homepage, [www.sdcountyemergency.com](http://www.sdcountyemergency.com), for comprehensive information about the incident
- Download the County Emergency App to receive push notifications with information about the incident and a link to the City's social media

City employees will be provided information about the incident, such as whether to report to work, closed facilities, etc. on an employee page on the City website as well as on CityNet, the City's intranet site. Information will also be available on the Employee Call-In recorded message. Information posted on these outlets will follow the protocol described in the previous section, emergency public information priorities.

### **Other Useful Information**

Usually this type of information will be released in the Post-Emergency Period because of lack of time and other priorities during other phases:

- State/Federal assistance available
- LACs (Local Assistance Centers) opening and closing dates/times/locations
- Historical events of this nature
- Charts/photographs/statistics from past events

- Human interest stories
- Acts of heroism
- Historical value of property damaged/destroyed



RESOLUTION NUMBER R- 312754

DATE OF FINAL PASSAGE DEC 12 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO AUTHORIZING AND DIRECTING EXECUTION  
OF A MEMORANDUM OF AGREEMENT WITH THE  
COUNTY OF SAN DIEGO FOR PUBLIC HEALTH AND  
ENVIRONMENTAL HEALTH SERVICES.

WHEREAS, in 1953, the San Diego City Council (Council) authorized the County of San Diego (County) to provide general public health services within the City of San Diego through the Basic Agreement for Public Health Services to be Furnished by the County to the City of San Diego (Basic Agreement); and

WHEREAS, in 1977, the Council authorized a Second Basic Agreement for Public Health Services to be Furnished by the County to the City of San Diego (Second Basic Agreement), which superseded the Basic Agreement and included environmental health services as a component of the County's public health services; and

WHEREAS, the Second Basic Agreement has been in full force and effect since 1977;  
and

WHEREAS, on November 5, 2018, by Resolution R-312024, the Council reaffirmed the City's commitment to a contractual relationship with the County for public health services under the state law and the Second Basic Agreement; and

WHEREAS, on March 27, 2019, the City and County entered into a Memorandum of Understanding to Ensure Awareness and Appropriate Response in Public Health Matters (MOU) to clarify the roles and responsibilities of the parties in routine or emergency public health matters, with the understanding that a revised, more formal agreement would follow; and



WHEREAS, the Memorandum of Agreement for Public Health and Environmental Health Services (Agreement) would supersede the Second Basic Agreement and the MOU and memorialize the responsibilities of the City, County Public Health Officer, and County Department of Environmental Health and how these parties communicate with each other; and

WHEREAS, the City will continue to vest full authority in the County's Public Health Officer and Director of Environmental Health to perform functions described in the Agreement and in state and local law; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor, or his designee, is authorized and directed to execute that certain Memorandum of Agreement for Public Health and Environmental Health Services between the City of San Diego and the County of San Diego, the terms and conditions of which are more fully set forth in Document No. RR- 312754 on file in the Office of the City Clerk.

APPROVED: MARA W. ELLIOTT, City Attorney

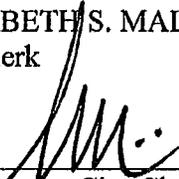
By   
Heather M. Ferbert  
Deputy City Attorney

HMF:soc  
11/04/19  
Or.Dept: Planning  
Doc. No.: 2210889



I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of DEC 09 2019.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 12/12/19  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor



Passed by the Council of The City of San Diego on DEC 09 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

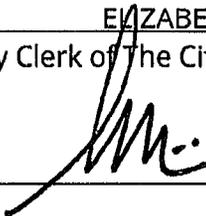
Date of final passage DEC 12 2019

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

AUTHENTICATED BY:

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

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

By , Deputy

(Seal)

Office of the City Clerk, San Diego, California
Resolution Number R- <u>312754</u>



Passed by the Council of The City of San Diego on December 9, 2019 by the following vote:

**YEAS:** **BRY, CAMPBELL, WARD, MONTGOMERY, KERSEY, CATE, SHERMAN,  
MORENO, GÓMEZ.**

**NAYS:** **NONE.**

**NOT PRESENT:** **NONE.**

**RECUSED:** **NONE.**

AUTHENTICATED BY:

**KEVIN L. FAULCONER**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: **Matthew R. Hilario**, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of  
RESOLUTION NO. **R-312754**, approved on **December 9, 2019**. The date of final  
passage is **December 12, 2019**.

**ELIZABETH S. MALAND**

City Clerk of the City of San Diego, California

(Seal)

By: , Deputy

