



SAN FERNANDO CITY COUNCIL
SPECIAL MEETING NOTICE AND AGENDA
MAY 22, 2017 – 6:00 PM
CITY HALL COUNCIL CHAMBERS
117 MACNEIL STREET
SAN FERNANDO, CA 91340

NOTICE IS HEREBY GIVEN that the San Fernando City Council will hold a Special Meeting on **Monday, May 22, 2017, at 6:00 p.m.**, in the City Hall Council Chambers, located at 117 Macneil Street, San Fernando, California.

CALL TO ORDER/ROLL CALL

Mayor Sylvia Ballin
Vice Mayor Antonio Lopez
Councilmember Jaime Soto
Councilmember Joel Fajardo
Councilmember Robert C. Gonzales

PLEDGE OF ALLEGIANCE

Led by Personnel Manager Michael Okafor

APPROVAL OF AGENDA

PUBLIC STATEMENTS – WRITTEN/ORAL

There will be a three (3) minute limitation per each member of the audience who wishes to make comments in order to provide a full opportunity to every person who desires to address the City Council. Only matters contained in this notice may be considered.

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ADMINISTRATIVE REPORTS**1) FISCAL YEAR 2017-2018 BUDGET STUDY SESSION NO. 2**

Recommend that the City Council:

- a. Review and discuss the Fiscal Year (FY) 2017-2018 Capital Improvement Program; and
- b. Review and discuss the FY 2017-2018 Proposed Budget, including, but not limited to, Special Funds and the updated list of changes to the Proposed Budget; and
- c. Provide direction regarding Special Event fee waivers; and
- d. Provided additional direction as necessary.

2) CONSIDERATION OF A LETTER OF OPPOSITION FOR ASSEMBLY BILL (AB) 1250 (JONES-SAWYER) COUNTIES AND CITIES: CONTRACTS FOR PERSONAL SERVICES

Recommend that the City Council approve a letter of opposition for Assembly Bill 1250 (Jones-Sawyer).

RECESS TO CLOSED SESSION

- A) CONFERENCE WITH LEGAL COUNSEL TO DISCUSS FACTS AND CIRCUMSTANCES UNKNOWN TO POTENTIAL PLAINTIFFS WHICH MAY CREATE EXPOSURE TO LITIGATION
G.C. §54957.9(d)(2) AND §54957.9(e)(1)
One (1) Matter

RECONVENE/REPORT OUT FROM CLOSED SESSION**ADJOURNMENT**

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I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 24 hours prior to the meeting.

Elena G. Chávez, CMC

City Clerk

Signed and Posted: May 19, 2017 (11:00 a.m.)

Agendas and complete Agenda Packets (including staff reports and exhibits related to each item) are posted on the City's Internet website (www.sfcity.org). These are also available for public reviewing prior to a meeting in the City Clerk Department. Any public writings distributed by the City Council to at least a majority of the Councilmembers regarding any item on this regular meeting agenda will also be made available at the City Clerk Department at City Hall located at 117 Macneil Street, San Fernando, CA, 91340 during normal business hours. In addition, the City may also post such documents on the City's website at www.sfcity.org. In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification/accommodation to attend or participate in this meeting, including auxiliary aids or services please call the City Clerk Department at (818) 898-1204 at least 48 hours prior to the meeting.

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Special Meeting

San Fernando City Council

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AGENDA REPORT

To: Mayor Sylvia Ballin and Councilmembers

From: Nick Kimball, Interim City Manager
By: Sonia Gomez-Garcia, Interim Finance Director

Date: May 22, 2017

Subject: Fiscal Year 2017-2018 Budget Study Session No. 2

RECOMMENDATION:

It is recommended that the City Council:

- a. Review and discuss the Fiscal Year (FY) 2017-2018 Capital Improvement Program; and
- b. Review and discuss the FY 2017-2018 Proposed Budget, including, but not limited to, Special Funds and the updated list of changes to the Proposed Budget; and
- c. Provide direction regarding Special Event fee waivers; and
- d. Provided additional direction as necessary.

BACKGROUND:

1. On February 21, 2017, the City Council was presented the FY 2015-2016 final audited financials, FY 2016-2017 Mid-year Budget Update, and FY 2017-2018 Budget Outlook. This marked the kick-off of the FY 2017-2018 Budget season.
2. During the months of March and April 2017, the Finance Department and Interim City Manager met with each Department to develop the FY 2017-2018 Proposed Budget, which includes revenues and expenditures for the General Fund, Enterprise Funds, and all Special Revenue Funds.
3. On April 17, 2017, City Council was presented the prior years' City-wide Strategic Goals and City Council Priorities and staff discussed the work program for FY 2017-2018.
4. On May 11, 2017, staff issued the FY 2017-2018 Proposed Budget to City Council and posted it on the City's website as part of the agenda packet. Click on the link below:

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<http://ci.san-fernando.ca.us/our-city/finance/financial-documents/#1478028433267-4fceecc0-1f89>

5. On May 15, 2017, the City Council held Budget Study Session No. 1 to present and discuss the Proposed FY 2017-2018 Budget.

ANALYSIS:

The primary focus of the May 15, 2017 Budget Study Session (Budget Study Session No. 1) was to provide the City Council with an overview of the FY 2017-2018 Proposed Budget and review department operating budgets. The budget overview included a brief discussion of the budget development process, recommended enhancements, summary schedules for the General Fund, Internal Service Funds, Enterprise Funds, and Special Revenue Funds, the General Fund highlights, and a presentation of each Department's proposed operating budget.

The focus of Budget Study Session No. 2 is to provide an update of current year capital projects and discuss the FY 2017-2018 Capital Improvement Program (Attachment "A"). Staff will also provide information on other Special Revenue Funds and follow up items that were identified at, or subsequent to, Budget Study Session No. 1 that may require additional discussion. Those items are provided below in more detail.

Special Event Fee Waiver

On February 21, 2017, staff presented a discussion item that included the process of requesting and approving fee waivers for special events. There was consensus among the City Council to have staff include an amount in the FY 2017-2018 Budget to be used toward fee waiver requests, with the ultimate goal of creating a grant program inviting fee waiver applications from interested event organizers in future years. Applicants to a fee waiver grant program will be scored on the overall benefit provided to the community as demonstrated by a number of metrics to be determined during development of the program.

In FY 2016-2017, the City Council waived a total of \$35,000 for five (5) non-City events: 1) Chili Festival, 2) San Fernando Fall Harvest Brewfest, 3) Indigenous Day, 4) Plaza Comunitaria Sinaloa, and 5) Downtown Trunk or Treat. The total amount waived included approximately \$20,000 for permit and rental fees (which reduces General Fund revenue) and \$15,000 for reimbursement of staff overtime costs (which increases General Fund expenditures).

Based on the February 2017 discussion and City Council approved fee waivers in FY 2016-2017, staff is recommending including an appropriation of \$20,000 to be used toward Special Event fee waivers in FY 2017-2018, with a maximum waiver \$5,000 per event. City Councilmembers may also choose to supplement the maximum fee waiver for an event by committing all, or a portion of, their Community Investment Funds.

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Requests for fee waivers will be presented for City Council consideration through an Agenda Report produced by staff. Before presenting the request to City Council, the requestor will be required to provide staff with the community benefit provided by the event, which will be included in the Agenda Report. Approved fee waivers will be applied first to overtime costs incurred by staff, then to reduce permit and rental fees, if applicable.

Self-Insurance Fund (Pages 95 – 96 of Proposed Budget)

The City participates in the Independent Cities Risk Management Authority (ICRMA) to secure liability, workers' compensation, property, automobile, employee theft, and cyber-crime insurance. The premium to participate in each program is determined annually based on a number of factors, including, but not limited to, total payroll, actual claims filed experience, and estimated claims filed during the year. From time to time, ICRMA does not initially collect sufficient premiums to fully cover the actual claims costs in a given year. Although it is rare, ICRMA must assess members for prior year claims shortfalls in order to maintain fiscal viability.

To cover shortfalls in six (6) claim years between FY 2003-2004 and FY 2015-2016, the ICRMA Governing Board approved an assessment of \$38.3 million in FY 2017-2018. The City's portion of the assessment is \$848,269. ICRMA authorized a 10-year payment plan for the assessment; therefore, an additional \$84,827 has been included in the proposed budget and is included in the liability premium appropriation in the Self Insurance Fund.

Proposition A – Transportation Funds (Pages 193 – 194 of Proposed Budget)***Councilmember Buses***

In the past, City Councilmembers were each allotted three (3) buses per year that could be used as transportation for community events and were paid for using Proposition A Transit funds. Since there is a wide variation in cost associated with different types of buses, expectations regarding the type and condition of the bus were sometimes miscommunicated. In FY 2015-2016, staff worked with an ad-hoc committee to change the policy from three buses to a set appropriation for each City Councilmember. Under the new policy, City Councilmembers could order as many buses as could be accommodated within their appropriation of \$5,000 per City Councilmember per year.

During development of the FY 2017-2018 budget, it was apparent that there are not currently sufficient Proposition A funds to accommodate an appropriation of \$5,000 per City Councilmember and fully fund the trolley system, dial-a-ride program, and MTA bus pass subsidy.

To date approximately \$16,500 of the total \$25,000 appropriation for buses has been expended. Therefore, staff reduced the appropriation for City Councilmember buses in FY 2017-2018 from \$25,000 to \$20,000, or \$4,000 per City Councilmember. This reduced amount should be sufficient to cover current requests without requiring the General Fund to subsidize the other programs funded by Proposition A.

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Taxi Vouchers and Rideshare Discount

Another program that may be funded using Proposition A funds are subsidies for taxi vouchers for individuals age 65 or older and qualified disabled persons in the City of San Fernando. The City may also be able to participate in a program that takes advantage of discounts for rideshare (i.e., Uber, Lyft, Sidecar, etc.) services for senior and disabled persons. These programs typically supplement, rather than supplant, a dial-a-ride program as they assist senior and disabled persons that are unable to make advance reservations, such as visits to urgent care.

Staff will be exploring opportunities to partner with alternate service providers to supplement the dial-a-ride program over the next year.

Measure A

Staff will be using funds already appropriated in the City Manager's Office to develop an information sheet that can be distributed at City Hall, Neighborhood Watch, and other City events to inform residents of the uses and benefits of Measure A since it was approved in 2013.

4th of July Event

In prior years, the City would host a 4th of July fireworks celebration for the community and residents of San Fernando. Due primarily to budget constraints, the City has not hosted a Fireworks celebration since July 2012. This event would cost the City's General Fund approximately \$35,000 to host and hire the production company, Pryo Spectaculars, Inc. In addition to purchasing fireworks and hiring a professional production company, the City must pay for audio system equipment and generators rental, portable restroom facilities, fencing and personnel time (i.e., overtime for Parks, Police, and Public Works employees, as well as LAFD standby time).

Staff will be exploring the feasibility of re-instituting the 4th of July event over the next year with the goal of holding the event in July 2019, if feasible.

National Pollutant Discharge Elimination System (NPDES) (Pages 129 - 132 of Proposed Budget)

Storm water is runoff from rain or snow melt that runs off surfaces such as rooftops, paved streets, highways or parking lots and can carry with it pollutants such as: oil, pesticides, herbicides, sediment, trash, bacteria, and metals. The runoff can then drain directly into a local stream, lake or bay. Often, the runoff drains into storm drains that eventually drain untreated into a local waterbody. The Federal Clean Water Act prohibits certain discharges of storm water containing pollutants, except in compliance with a NPDES permit.

The City is permitted to discharge storm water containing pollutants into the storm drain system under a statewide general permit covering small cities of less than 100,000 residents. The permit requires the City to take certain actions to reduce the amount of pollutants that

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enter the storm drain system. Non-compliance with the permit can result in significant financial fines from state and federal regulatory bodies.

In FY 2016-2017, the City was required to install perforated screen inserts inside many of the catch basins and perforated screens on the curb opening of catch basins along the curb face throughout the City to prevent trash and other debris from entering the storm drains. Now that the screens have been installed, the City must pay a \$65,000 annual maintenance fee to ensure they remain clean and operational.

Additionally, the City pays approximately \$50,000 to a consultant to represent the City at mandatory meetings and trainings to comply with the NPDES permit. In the past, this contract had been paid for by the Water and Sewer funds. However, since storm water is a completely separate system and is not associated with the water or sewer systems, the City cannot continue to pay that contract from those funds.

As a result of these NPDES costs being borne by the General Fund, ongoing O&M costs are increasing by more than \$115,000 in FY 2017-2018. Despite the added ongoing costs, the operating budget deficit is still projected to be eliminated by FY 2020-2021.

Other Changes to Proposed Budget

Subsequent to Budget Study Session No. 1, there have been a few minor adjustments to the Proposed Budget (Attachment "B"). The adjustments are primarily the result of information received by staff after printing the proposed budget and making adjustments to some special revenue funds to ensure positive fund balances.

BUDGET IMPACT:

The total Proposed Budget for all funds is approximately \$41.5 million. The Proposed General Fund budget is \$18.970 million. In accordance with the City's Budget Policy, the FY 2017-2018 Proposed General Fund Budget represents a balance budget, with General Fund revenues of \$19.354 million and expenditures of \$18.970 million estimating a surplus of \$383,990.

The estimated cost for the additional items not included in the Proposed Budget are below:

Special Event Fee Waiver:

- Approximately \$20,000 (General Fund)

CONCLUSION:

The objective of the FY 2017-2018 Proposed Budget is three-fold: 1) reduce the operating budget deficit; 2) reduce the General Fund deficit fund balance; and 3) fund critical one-time

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needs to upgrade the City's infrastructure. With Measure A expiring in three (3) years, staff's focus is to reduce the General Fund's annual operating deficit and deficit fund balance as quickly as possible while balancing the need for critical infrastructure upgrades to the City's technology, streets, sewer system, and water system.

Staff is seeking City Council direction regarding additional items, if any, to include in the FY 2017-2018 Proposed Budget.

ATTACHMENTS:

- A. Capital Improvement Program Project Sheets
- B. Changes to Proposed Budget



**Capital Improvement
Program
Fiscal Year 2017-18**



CAPITAL IMPROVEMENT PROGRAM

Capital Improvement Program

Project Number	Category	Project Name	Status
6676	Street and Sidewalk Improvements	Truman Street Revitalization Project	Preparing Design Est. Completion: April 2018
3661	Facility Improvements	Compressed Natural Gas Fueling Station	Preparing Design Est. Completion: April 2018
6673	Street and Sidewalk Improvements	Glenoaks Boulevard Resurfacing	RFP Sent Out Est. Completion: April 2018
0560	Street and Sidewalk Improvements	Annual Resurfacing (Construction Phase of FY 16-17 Project)	Preparing Design Est. Completion: Feb. 2018
0127	Street and Sidewalk Improvements	CDBG Street Resurfacing (Alexander Street Overlay Project: Construction)	Under Construction Est. Completion: Dec. 2017
TBD	Sewer Improvements	Sewer Improvements	PENDING
3699	Other Improvements	Electric Vehicle Charging Stations	Reviewing Proposals Est. Completion: Dec. 2017
0000	Maintenance	Catch Basin Trash Excluder Maintenance	Commences July 2017
0551	Bikeway Improvements	Pacoima Wash Bikeway Project	Preparing Design Est. Completion: Oct. 2019



CAPITAL IMPROVEMENT PROGRAM

Title: Truman Street Revitalization Project
Category: Street and Sidewalk Improvements
Project: 6676

SOURCES		
Fund	Account Number	Allocation
TCSP	010-3686-6676	\$ 236,154
Measure R	012-3686-6676	\$ 30,597
Total Sources:		\$ 266,751

USES		
Activity	Account Number	Cost
Inspection	012-311-6676-4260	\$ 15,000
Construction	010-311-6676-4600	\$ 216,154
Contingency (10%)	010-311-6676-4600	\$ 20,000
Expenditures-to-Date (if applicable)		
Admin	012-311-6676-4270	\$ 15,597
Total Uses		\$ 266,751

ACTIVITY	START	DURATION	MONTH						
			A	M	J	J	A	S	
Project Duration	A	90 DAYS							
Advertisement	June								
City Council Award of Contract	July								
Work Period		60 DAYS							

Project Description:

Revitalization of Truman Street from Brand Boulevard to San Fernando Mission Road.



CAPITAL IMPROVEMENT PROGRAM

Title: CNG Station

Category: Facility Improvements

Project: 3661

SOURCES		
Fund	Account Number	Allocation
FTA Grant	010-3940-3661	\$ 1,339,460
AQMD/MSRC Grant*	010-3686-3697	\$ 387,091
AB 2766	016-3605-0000	\$ 30,000
Total Sources:		\$ 1,756,551

USES		
Activity	Account Number	Cost
PM	010/016-311-3661-4600	\$ 25,000
Staff	010/016-311-3661-4600	\$ 55,000
Construction	010/016-311-3661/3697-4600	\$ 1,436,000
Contingency (15%)	010/016-311-3661-4600	\$ 215,400
Expenditures-to-Date (if applicable)		
Planning/Design	010/016-311-3661-4600	\$ 25,151
Total Uses		\$ 1,756,551

ACTIVITY	START	DURATION	MONTH							
			A	M	J	J	A	S	O	
Project Duration	J	180 DAYS								
City Council Award of Contract	Awarded									
Design/Construction Period	J	120 DAYS								

Project Description:

CNG fueling station upgrades at our facility located at 120 Macneil Street. Project will include the design, engineering, fabrication, installation, commissioning, testing and training associated with the CNG station equipment upgrades. This project is financed in part with Federal funds and requires compliance with applicable laws and regulations.



CAPITAL IMPROVEMENT PROGRAM

Title: Glenoaks Boulevard Resurfacing

Category: Street and Sidewalk Improvements

Project: 6673

SOURCES		
Fund	Account Number	Allocation
Measure R	012-3946-0000	\$ 1,467,000
Cal Recycle Grant*	010-3686-6673	\$ 98,000
Total Sources:		\$ 1,565,000

USES		
Activity	Account Number	Cost
Design	012-311-6673-4600	\$ 75,000
Staff	012-311-6673-4600	\$ 50,000
Construction	010/012-311-6673-4600	\$ 1,250,000
Contingency (15%)	010/012-311-6673-4600	\$ 190,000
Expenditures-to-Date (if applicable)		
		\$ 0
Total Uses		\$ 1,565,000

Project Description:

Asphalt improvements and re-pavement of Glenoaks Boulevard from East City Limit to West City Limit; including water and sewer repair, construction of median islands and traffic signal upgrades.



CAPITAL IMPROVEMENT PROGRAM

Title: Annual Resurfacing (Construction Phase of FY 16-17 Project)

Category: Street and Sidewalk Improvements

Project: 0560

SOURCES		
Fund	Account Number	Allocation
Measure R	012-3946-0000	\$ 1,080,000
Total Sources:		\$ 1,080,000

USES		
Activity	Account Number	Cost
Design	012-311-0560-4600	\$ 60,000
Staff	012-311-0560-4600	\$ 40,000
Construction	012-311-0560-4600	\$ 850,000
Contingency (15%)	012-311-0560-4600	\$ 130,000
Expenditures-to-Date (if applicable)		\$
Total Uses		\$ 1,080,000

Project Description:

Annual Street Repair Program: Resurfacing of approximately 18,595 linear feet of roadway on Phillippi Street (West City Limits to Orange Grove), Arroyo Avenue (5th to Glenoaks), Lazard Street (4th to Glenoaks), Harding Avenue (Glenoaks to North City Limit), Alexander Street (Library to Lucas), and Workman Street (Glenoaks to 7th). Includes sidewalk, curb and gutter, driveway approach, trees, plus water and sewer replacement.



CAPITAL IMPROVEMENT PROGRAM

Title: CDBG Street Resurfacing (Alexander Street Overlay Project: Construction)

Category: Street and Sidewalk Improvements

Project: 0127

SOURCES		
Fund	Account Number	Allocation
CDBG	026-3693-0127	\$ 270,648
Total Sources:		\$ 270,648

USES		
Activity	Account Number	Cost
Inspection	026-311-0127-4600	\$ 23,070
Construction	026-311-0127-4600	\$ 200,000
Contingency (10%)	026-311-0127-4600	\$ 20,000
Expenditures-to-Date (if applicable)		
Engineering Services		\$ 27,578
Total Uses		\$ 270,648

Project Description:

Street Resurfacing: Includes sidewalk, curb and gutter, driveway approach and trees.

Location: Alexander Street (between 1st and Library).



CAPITAL IMPROVEMENT PROGRAM

Title: Sewer Improvements

Category: Sewer Improvements

Project: TBD

SOURCES		
Fund	Account Number	Allocation
Sewer	072 Fund Balance	\$ 500,000
Total Sources:		\$ 500,000

USES		
Activity	Account Number	Cost
Inspection	072-365-xxxx-4600	\$ 50,000
Construction	072-365-xxxx-4600	\$ 410,000
Contingency (10%)	072-365-xxxx-4600	\$ 40,000
Expenditures-to-Date (if applicable)		
Total Uses		\$ 500,000

Project Description:

This includes Point repair, upgrades and rehabilitation of City Sewer System.



CAPITAL IMPROVEMENT PROGRAM

Title: Electric Vehicle Charging Stations

Category: Other Improvements

Project: 3699

SOURCES		
Fund	Account Number	Allocation
AQMD/MSRC Grant	010-3686-3699	\$ 100,000
Fund 29 (Parking & Maintenance Operations)	029-3850-3699	\$ 100,000
Total Sources:		\$ 200,000

USES		
Activity	Account Number	Cost
Inspection	TBD	\$
Construction / Equipment	TBD	\$
Contingency (10%)	TBD	\$
		\$
Expenditures-to-Date (if applicable)		
Total Uses		\$ 200,000

Project Description:

Install electric vehicle charging stations at City owned parking lots.



CAPITAL IMPROVEMENT PROGRAM

Title: Catch Basin Trash Excluder Maintenance (1st Year of Lifetime Maintenance)

Category: Street Maintenance

Project: 0000

SOURCES			
Fund	Account Number	Allocation	
General Fund	001 Fund Balance	\$	65,000
Total Sources:		\$	65,000

USES			
Activity	Account Number	Cost	
Street Maintenance	001-311-0000-4260	\$	65,000
Total Uses		\$	65,000

Project Description:

This is for required maintenance of City/County owned catch basins to maintain National Pollutant Discharge Elimination System (NPDES) Permit.



CAPITAL IMPROVEMENT PROGRAM

Title: City of San Fernando Pacoima Wash Bike/Ped Path, Phase 1

Category: Bikeway Improvements

Project:

SOURCES		
Fund	Account Number	Allocation
ATP Cycle 3	010-3686-XXXX	\$ 973,000
AQMD/MSRC AB2766 Funds (Grant)	010-3686-XXXX	\$ 354,000
AQMD Fund 16	016-	\$ 165,457
Measure R	012-	\$ 188,543
Total Sources:		\$ 1,681,000

USES		
Activity	Account Number	Cost
Inspection	TBD	\$
Construction / Equipment	TBD	\$
Contingency (10%)	TBD	\$
		\$
Expenditures-to-Date (if applicable)		
Total Uses		\$ 1,681,000

Project Description:

Construct bike path that extends the full 1.6-mile length of the Pacoima Wash within the City of San Fernando, from roughly San Fernando Road to Foothill Boulevard. It will also connect with the city's existing rail-with-trail bike path that runs between San Fernando Road and the Metrolink railroad tracks.

**City of San Fernando
Adjustments to Proposed Budget
Fiscal Year 2017-2018**

Attachment B

001 - GENERAL FUND				
Beginning Fund Balance:				(2,910,911)
Proposed Revenue Total				19,354,177
<i>Account - Description</i>	<i>Proposed Estimate</i>	<i>Revised Estimate</i>		<i>Change</i>
N/A	-	-		-
<i>Total Revenue Adjustments</i>		-	-	-
Revised Revenue Total				19,354,177
<hr/>				
Proposed Expenditure Total				18,970,187
<i>Account - Description</i>	<i>Proposed Appropriation</i>	<i>Revised Appropriation</i>		<i>Difference</i>
N/A	-	-		-
<i>Total Expenditure Adjustments</i>		-	-	-
Revised Expenditure Total				18,970,187
Operating Surplus(Deficit)				383,990
Ending Fund Balance:				(2,526,921)
024 - MEASURE M FUND				
Beginning Fund Balance:				-
Proposed Revenue Total				-
<i>Account - Description</i>	<i>Proposed Estimate</i>	<i>Revised Estimate</i>		<i>Change</i>
Sales and Use Tax	-	305,617		305,617
<i>Total Revenue Adjustments</i>		-	305,617	305,617
Revised Revenue Total				305,617
<hr/>				
Proposed Expenditure Total				-
<i>Account - Description</i>	<i>Proposed Appropriation</i>	<i>Revised Appropriation</i>		<i>Difference</i>
N/A	-	-		-
<i>Total Expenditure Adjustments</i>		-	-	-
Revised Expenditure Total				-
Operating Surplus(Deficit)				305,617
Ending Fund Balance:				305,617

To appropriate Measure M Local Return Funds

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AGENDA REPORT

To: Mayor Sylvia Ballin and Councilmembers

From: Nick Kimball, Interim City Manager

Date: May 22, 2017

Subject: Consideration of a Letter of Opposition for Assembly Bill (AB) 1250 (Jones-Sawyer) Counties and Cities: Contracts for Personal Services

RECOMMENDATION:

It is recommended that the City Council approve a letter of opposition (Attachment "A") for Assembly Bill 1250 (Jones-Sawyer).

BACKGROUND:

1. Assembly Bill (AB) 1250 was introduced by Assembly Member Reginald Jones-Sawyer Sr. (D) on February 17, 2017.
2. On May 10, 2017, AB 1250 was sent to the Assembly Appropriations Committee and is currently in the Suspense File. The Committee sends any bill with an annual cost of more than \$150,000 to the Suspense File, which are then considered at one hearing after the state budget has been prepared and the Committee has a better sense of available revenue.
3. The Assembly Appropriations Committee is expected to consider bills in the Suspense File prior to May 26, 2017.

ANALYSIS:

AB 1250 would require the City to perform a number of costly and burdensome analysis, including a full cost-benefit analysis of the impact on local businesses if consumer spending power is reduced, and a full analysis of the environmental impact caused by contracting the service before entering into, or renewing, a contract.

AB 1250 would also require the City to create a new, fully searchable database that must be posted on the City's website that includes the following:

1. The names, job titles, salary of each contracted (and subcontracted) employee.

Consideration of a Letter of Opposition for Assembly Bill (AB) 1250 (Jones-Sawyer) Counties and Cities: Contracts for Personal ServicesPage 2 of 2

2. The contracted service and the name of the department or division of the city that manages the contract.
3. The amount paid to the contract including the total projected cost of the contract for all fiscal years and the funding source.
4. The total number of "full time equivalent" employees being contracted out.

Apart from the inherent cost drivers mandated by AB 1250, the City has strong privacy concerns about posting full names, job titles and salaries of non-city employees. The costs associated with potential privacy litigation from contractors could be significant.

BUDGET IMPACT:

There is no budget impact associated with sending a letter of opposition to AB 1250. However, compliance with AB 1250 if signed into law would create a significant barrier to contracting services to the community.

CONCLUSION:

The workload, privacy concerns, costs and potential litigation created by this measure places an overwhelming and significant burden on the City and would create a de facto ban on contracting City services. Depriving cities of the flexibility to enter into contracts for services by creating extremely costly and restrictive mandates will result in a drastic reduction in the level of service cities can afford to provide to the community.

ATTACHMENTS:

- A. Proposed Letter
- B. Text of the proposed legislation, as amended on April 25, 2017



THE CITY OF
SAN FERNANDO

ATTACHMENT "A"

CITY COUNCIL

May 22, 2017

MAYOR
SYLVIA BALLIN

Assembly Member Lorena Gonzalez Fletcher

VICE MAYOR
ANTONIO LOPEZ

State Capitol, Room 2114

COUNCILMEMBER
JOEL FAJARDO

P.O. Box 942849

Sacramento, CA 94249-0080

COUNCILMEMBER
ROBERT C. GONZALES

**RE: OPPOSITION to Assembly Bill 1250 (Jones-Sawyer). Counties and Cities:
Contracts for Personal Services (as amended 4/25/17)**

COUNCILMEMBER
JAIME SOTO

Dear Assembly Member Gonzalez Fletcher:

I am writing on behalf of the City Council to express the City of San Fernando's opposition to Assembly Bill (AB) 1250, which effectively eliminates cities ability to contract services to the community.

This measure would require the City to perform a number of costly and burdensome analysis, including a full cost-benefit analysis of the impact on local businesses if consumer spending power is reduced and a full analysis of the environmental impact caused by contracting the service, before entering into, or renewing, a service contract.

AB 1250 would also require the City to create a new, fully searchable database that must be posted on the City's website, which will create significant costs in increased staff time and workload. Specifically, AB 1250 requires the database include:

- 1) The names, job titles, salary of each contracted (and subcontracted) employee.
- 2) The contracted service and the name of the department or division of the city that manages the contract.
- 3) The amount paid to the contract including the total projected cost of the contract for all fiscal years and the funding source.
- 4) The total number of "full time equivalent" employees being contracted out.

Apart from the inherent cost drivers mandated by AB 1250, the City has strong privacy concerns about posting full names, job titles and salaries of non-city employees. The costs associated with potential privacy litigation from contractors could be significant.

Since the Great Recession in 2007, many cities have been experiencing financial hardships. The City of San Fernando currently has a \$3 million deficit fund balance in the General Fund, which is a reduction from a \$6 million deficit fund balance just two

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ASSEMBLY MEMBER GONZALEZ FLETCHER

OPPOSITION to Assembly Bill 1250 (Jones-Sawyer). Counties and Cities: Contracts for Personal Services (as amended 4/25/17)

Page 2 of 2

years ago. The City has laid out and followed a strict financial plan and we are projected to be back in the black by 2020.

These strides have been achievable primarily through prudent long-term fiscal planning and targeted, cost efficient partnerships with both public and private entities that have created a net benefit to the level of service provided to the community. If cities like San Fernando are deprived of the flexibility to enter into these types of partnerships by creating extremely costly and restrictive mandates, the only remaining options for cost savings will be to reduce service to the community and lay off employees.

The workload, privacy concerns, costs and potential litigation created by this measure places an overwhelming and significant burden on the City and would create a de facto ban on contracting City services.

For these reasons City of San Fernando opposes Assembly Bill 1250.

Sincerely,

Sylvia Ballin, Mayor
City of San Fernando

cc: Assembly Member Raul Bocanegra



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AB-1250 Counties and cities: contracts for personal services. (2017-2018)

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AMENDED IN ASSEMBLY APRIL 25, 2017

AMENDED IN ASSEMBLY APRIL 17, 2017

AMENDED IN ASSEMBLY APRIL 04, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 1250

Introduced by Assembly Member Jones-Sawyer

February 17, 2017

An act to add Sections 31000.10, 31000.11, 37103.1, and 37103.2 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1250, as amended, Jones-Sawyer. Counties and cities: contracts for personal services.

Existing law authorizes the board of supervisors of a county to contract for special services on behalf of various public entities with persons who are specially trained, experienced, expert, and competent to perform the special services, as prescribed. These services include financial, economic, accounting, engineering, legal, and other specified services. Existing law also authorizes legislative bodies of cities to contract with any specially trained and experienced person, firm, or corporation for special services and advice in financial, economic, accounting, engineering, legal, or administrative matters.

This bill would establish specific standards for the use of personal services contracts by counties and cities. Beginning January 1, 2018, the bill would allow a county or county agency, or a city or city agency, to contract for personal services currently or customarily performed by county employees, as applicable, when specified conditions are met. Among other things, the bill would require the county or city to clearly demonstrate that the proposed contract will result in actual overall costs savings to the county or city and also to show that the contract does not cause the displacement of county or city workers. The bill would require a contract entered into under these provisions to specify that it may be terminated upon material breach, if notice is provided, as specified. Additionally, the bill would require the county or city to provide an orientation to employees of the contractor who would perform services pursuant to the contract, ~~and would establish liability provisions for employment law violations and torts committed in the course of providing services under contract,~~ among other conditions. *The bill would require that the county or city conduct a cost-benefit analysis prior to entering into the contract and would require the prospective contractors to reimburse the cost of the analysis. The bill would also require the county or city to conduct an audit of the contract to determine whether cost savings have been*

realized and would require the contractor to reimburse the cost of the audit. The bill would impose additional disclosure requirements for contracts exceeding ~~-\$100,000~~ \$5,000,000 annually, would exempt certain types of contracts from its provisions, and would require each county or city to maintain on its Internet Web site a searchable database of all of its contracts exceeding ~~-\$100,000-~~ \$5,000,000. By placing new duties on local government agencies, the bill would impose a state-mandated local program.

The bill also would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 31000.10 is added to the Government Code, to read:

31000.10. The purpose of this section and Section 31000.11 is to establish standards for the use of personal services contracts by counties.

(a) If otherwise permitted by law, a county or county agency may contract for personal services currently or customarily performed by county employees when all the following conditions are met:

(1) The board of supervisors or county agency clearly demonstrates that the proposed contract will result in actual overall cost savings to the county for the duration of the entire contract as compared with the county's actual costs of providing the same services, provided that:

(A) In comparing costs, there shall be included the county's additional cost of providing the same service as proposed by a contractor. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the function.

(B) In comparing costs, there shall not be included the county's indirect overhead costs unless these costs can be attributed solely to the function in question and would not exist if that function was not performed in county service. Indirect overhead costs shall mean the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.

(C) In comparing costs, there shall be included in the cost of a contractor providing a service any continuing county costs that would be directly associated with the contracted function. These continuing county costs shall include, but not be limited to, those for inspection, supervision, and monitoring.

(2) Proposals to contract out work shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. Proposals to contract out work shall be eligible for approval if the contractor's wages are at the industry's level and do not significantly undercut county pay rates.

(3) The contract does not cause the displacement of county employees. "Displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. "Displacement" does not include changes in shifts or days off or reassignment to other positions within the same class and general location.

(4) The contract does not cause vacant positions in county employment to remain unfilled.

(5) The contract does not adversely affect the county's affirmative action efforts.

(6) The savings shall be large enough to ensure that they will not be eliminated by private sector and county cost fluctuations that could normally be expected during the contracting period.

(7) The amount of savings clearly justifies the size and duration of the contracting agreement.

(8) The contract is awarded through a publicized, competitive bidding process. The county shall reserve the right to reject any and all bids or proposals.

(9) The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract, as well as assurance that the contractor's hiring practices meet applicable nondiscrimination, affirmative action standards.

(10) The potential for future economic risk to the county from potential contractor rate increases is minimal.

(11) The contract is with a firm. "Firm" means a corporation, partnership, nonprofit organization, or sole proprietorship.

(12) The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by county government. Before executing a contract for personal services under this section, the county shall demonstrate that outsourcing the particular functions at issue is in the public interest, addressing the cost of the contract, the cost of administering the contract, the effect on the quality of services provided to the public, and any other relevant circumstances.

(13) The contract shall provide that it may be terminated at any time by the county without penalty if there is a material breach of the contract and notice is provided at least 30 days before termination.

(14) The county shall provide an orientation to employees of the contractor who will perform services pursuant to the contract. The orientation shall include, but is not limited to, all of the following:

(A) A description of the services to be provided pursuant to the contract.

(B) A description of the function and goals of the public agency responsible for providing the services in the absence of the contract.

(C) Any applicable rules governing provision of the services and how the employee may report violations of applicable rules or contractual requirements.

~~(15) The county shall be jointly and severally liable with the contractor and any of its subcontractors for:~~

~~(A) Employment law violations arising from performance of the contract, unless otherwise provided by a bona fide collective bargaining agreement covering the affected employees.~~

~~(B) Torts committed by the contractor or its subcontractors in the course of providing services under the contract.~~

~~(16)~~

(15) If the contract is for personal services in excess of one hundred thousand dollars (\$100,000) annually, all of the following shall occur:

(A) The county shall require the contractor to disclose all of the following information as part of its bid, application, or answer to a request for proposal:

(i) A description of all charges, claims, or complaints filed against the contractor with any federal, state, or local administrative agency during the prior 10 years.

(ii) A description of all civil complaints filed against the contractor in any state or federal court during the prior 10 years.

(iii) A description of all state or federal criminal complaints or indictments filed against the contractor, or any of its officers, directors, or managers, at any time.

(iv) A description of any debarments of the contractor by any public agency or licensing body at any time.

(v) The total compensation, including salaries and benefits, the contractor provides to workers performing work similar to that to be provided under the contract.

(vi) The total compensation, including salaries, benefits, options, and any other form of compensation, provided to the five highest compensated officers, directors, executives, or employees of the contractor.

(vii) Any other information the county deems necessary to ensure compliance with this section.

(B) Prior to entering into the contract, the county shall conduct, and make public, a ~~study of cost-benefit analysis considering~~ the potential impact of outsourcing the work covered by the ~~contract, including, but not limited to:~~ contract. *The analysis shall include:*

(i) The potential loss of employment opportunities within the county and resultant loss of income to workers.

(ii) The ~~economic~~ impact on local businesses if consumer spending power is reduced as a result of reduced wages under the contract.

(iii) The impact on the county's ability to provide social services and the effect of any reduction in social services on county residents.

~~(iv) Any environmental impact caused by contracting for the services at issue.~~

(iv) Potential impacts on the environment, if any.

(C) Prospective contractors shall reimburse the county for the cost of the cost-benefit analysis.

~~(E)~~

(D) The contract shall provide that the county is entitled to receive a copy of any records related to the contractor's or any subcontractor's performance of the contract, and that any of those records shall be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). In furtherance of this subdivision, contractors and any subcontractors shall maintain records related to performance of the contract that ordinarily would be maintained by the county in performing the same functions.

~~(E)~~

(E) The county shall include in the contract specific, measurable performance standards and provisions for a performance audit by the county, or an independent auditor approved by the county, to determine whether the performance standards are being met and whether the contractor is in compliance with applicable laws and regulations. The county shall not renew or extend the contract prior to receiving and considering the audit report.

~~(E)~~

(F) (1) The contract shall include provisions for an audit by the county, or an independent auditor approved by the county, to determine whether and to what extent the anticipated cost savings have actually been realized. The county shall not renew or extend the contract before receiving and considering the audit report.

(2) The contractor shall reimburse the county for the cost of the audit.

(b) This section does not preclude a county from adopting more restrictive rules regarding the contracting of public services.

(c) When otherwise permitted by law, the absence of any requirement of subdivision (a) shall not prevent personal services contracting when any of the following conditions are met:

(1) The contract is for a new county function and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.

(2) The contract is between the county and another government entity for services to be performed by employees of the other government entity.

~~(2)~~

(3) The services contracted cannot be performed satisfactorily by county employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available among county employees.

~~(3)~~

(4) The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as "service agreements," shall include, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.

~~(4)~~

(5) The legislative, administrative, or legal goals and purposes cannot be accomplished through the utilization of county employees. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts shall include, but not be limited to, obtaining expert witnesses in litigation.

~~(5)~~

(6) The nature of the work is such that the standards of this part for emergency appointments apply. These contracts shall conform with Section 31000.4.

~~(6)~~

(7) Public entities or officials need private counsel because a conflict of interest on the part of the county counsel's office prevents it from representing the public entity or official without compromising its position. These contracts shall require the written consent of the county counsel.

~~(7)~~

(8) The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the county in the location where the services are to be performed.

~~(8)~~

(9) The contractor will conduct training courses for which appropriately qualified county employee instructors are not available, provided that permanent instructor positions in academies or similar settings shall be filled by county employees.

~~(9)~~

(10) The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation by county employees would frustrate their very purpose.

(d) All persons who provide services to a county under conditions constituting an employment relationship shall be employed directly by the county.

(e) (1) Except as provided in paragraph (2), this section shall apply to all counties, including counties that have adopted a merit or civil service system.

(2) This section does not apply to a charter county formed pursuant to Section 3 of Article XI of the California Constitution.

(f) (1) This section does not apply to any contract for services described in Section 4525 or 4529.10.

(2) This section does not apply to any contract that is subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(3) This section does not apply to a contract for public transit services, including paratransit services, if the county's transit services are fully funded by Federal Transit Administration assistance and the county is thereby subject to the guidelines established in FTA Circular 4220.1F or any subsequent guidelines or revisions issued by the Federal Transit Administration.

(g) This section shall apply to personal services contracts entered into, renewed, or extended on or after January 1, 2018.

SEC. 2. Section 31000.11 is added to the Government Code, to read:

31000.11. (a) Each county shall maintain on its Internet Web site a searchable database of all contracts of an annual value in excess of ~~one hundred thousand dollars (\$100,000)~~ *five million dollars (\$5,000,000)* entered into pursuant to Section 31000.10. The database shall include, but is not limited to, the following:

(1) A description of the services provided under the contract.

(2) The name of the agency, department, or division responsible for providing the service in the absence of the contract.

(3) The name of the contractor and any subcontractors providing services under the contract.

(4) The effective and expiration dates of the contract.

(5) The annual amount paid pursuant to the contract to the contractor in the past three fiscal years and the current fiscal year, including the funding source for all amounts paid.

(6) The annual amount expected to be paid pursuant to the contract to the contractor in the next three fiscal years.

(7) The total projected cost of the contract for all fiscal years and the funding source for all amounts to be paid.

(8) The names of the employees of the contractor and any subcontractors providing services pursuant to the contract and their hourly pay rates, and the total number of full-time equivalent positions involved in performing the services under the contract.

(9) The names of any workers providing services pursuant to the contract as independent contractors and the compensation rates for such workers.

(b) The information identified in subdivision (a) shall be compiled in an annual service contractor expenditure budget accompanying the county budget, reflecting all spending on personal services contracts by the county.

SEC. 3. Section 37103.1 is added to the Government Code, to read:

37103.1. The purpose of this section and Section 37103.2 is to establish standards for the use of personal services contracts by cities.

(a) If otherwise permitted by law, a city or city agency may contract for personal services currently or customarily performed by city employees when all the following conditions are met:

(1) The city council or city agency clearly demonstrates that the proposed contract will result in actual overall cost savings to the city for the duration of the entire contract as compared with the city's actual costs of providing the same services, provided that:

(A) In comparing costs, there shall be included the city's additional cost of providing the same service as proposed by a contractor. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the function.

(B) In comparing costs, there shall not be included the city's indirect overhead costs unless these costs can be attributed solely to the function in question and would not exist if that function was not performed in city service. Indirect overhead costs shall mean the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.

(C) In comparing costs, there shall be included in the cost of a contractor providing a service any continuing city costs that would be directly associated with the contracted function. These continuing city costs shall include, but not be limited to, those for inspection, supervision, and monitoring.

(2) Proposals to contract out work shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. Proposals to contract out work shall be eligible for approval if the contractor's wages are at the industry's level and do not significantly undercut city pay rates.

(3) The contract does not cause the displacement of city employees. "Displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. "Displacement" does not include changes in shifts or days off or reassignment to other positions within the same class and general location.

(4) The contract does not cause vacant positions in city employment to remain unfilled.

(5) The contract does not adversely affect the city's affirmative action efforts.

(6) The savings shall be large enough to ensure that they will not be eliminated by private sector and city cost fluctuations that could normally be expected during the contracting period.

(7) The amount of savings clearly justifies the size and duration of the contracting agreement.

(8) The contract is awarded through a publicized, competitive bidding process. The city shall reserve the right to reject any and all bids or proposals.

(9) The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract, as well as assurance that the contractor's hiring practices meet applicable nondiscrimination, affirmative action standards.

(10) The potential for future economic risk to the city from potential contractor rate increases is minimal.

(11) The contract is with a firm. "Firm" means a corporation, partnership, nonprofit organization, or sole proprietorship.

(12) The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by city government. Before executing a contract for personal services under this section, the city shall demonstrate that outsourcing the particular functions at issue is in the public interest, addressing the cost of the contract, the cost of administering the contract, the effect on the quality of services provided to the public, and any other relevant circumstances.

(13) The contract shall provide that it may be terminated at any time by the city without penalty if there is a material breach of the contract and notice is provided at least 30 days before termination.

(14) The city shall provide an orientation to employees of the contractor who will perform services pursuant to the contract. The orientation shall include, but is not limited to, all of the following:

(A) A description of the services to be provided pursuant to the contract.

(B) A description of the function and goals of the public agency responsible for providing the services in the absence of the contract.

(C) Any applicable rules governing provision of the services and how the employee may report violations of applicable rules or contractual requirements.

~~(15) The city shall be jointly and severally liable with the contractor and any of its subcontractors for:~~

~~(A) Employment law violations arising from performance of the contract, unless otherwise provided by a bona fide collective bargaining agreement covering the affected employees.~~

~~(B) Torts committed by the contractor or any of its subcontractors in the course of providing services under the contract.~~

~~(16)~~

(15) If the contract is for personal services in excess of one hundred thousand dollars (\$100,000) annually, all of the following shall occur:

(A) The city shall require the contractor to disclose all of the following information as part of its bid, application, or answer to a request for proposal:

(i) A description of all charges, claims, or complaints filed against the contractor with any federal, state, or local administrative agency during the prior 10 years.

(ii) A description of all civil complaints filed against the contractor in any state or federal court during the prior 10 years.

(iii) A description of all state or federal criminal complaints or indictments filed against the contractor, or any of its officers, directors, or managers, at any time.

(iv) A description of any debarments of the contractor by any public agency or licensing body at any time.

(v) The total compensation, including salaries and benefits, the contractor provides to workers performing work similar to that to be provided under the contract.

(vi) The total compensation, including salaries, benefits, options, and any other form of compensation, provided to *the* five highest compensated officers, directors, executives, or employees of the contractor.

(vii) Any other information the city deems necessary to ensure compliance with this section.

(B) Prior to entering into the contract, the city shall conduct, and make public, a *study of cost-benefit analysis considering* the potential impact of outsourcing the work covered by the ~~contract, including, but not limited to, contract.~~ *The analysis shall include:*

(i) The potential loss of employment opportunities within the city and resultant loss of income to workers.

(ii) The ~~economic~~ impact on local businesses if consumer spending power is reduced as a result of reduced wages under the contract.

(iii) The impact on the city's ability to provide social services and the effect of any reduction in social services on city residents.

~~(iv) Any environmental impact caused by contracting for the services at issue.~~

(iv) Potential impacts on the environment, if any.

(C) Prospective contractors shall reimburse the city for the cost of the cost-benefit analysis.

~~(E)~~

(D) The contract shall provide that the city is entitled to receive a copy of any records related to the contractor's or any subcontractor's performance of the contract, and that any such records shall be subject to the California Public Records Act (Chapter 5 (commencing with Section 6250) of Division 7 of Title 1). In furtherance of this subdivision, contractors and any subcontractors shall maintain records related to performance of the contract that ordinarily would be maintained by the city in performing the same functions.

~~(E)~~

(E) (1) The city shall include in the contract specific, measurable performance standards and provisions for a performance audit by the city, or an independent auditor approved by the city, to determine whether the performance standards are being met and whether the contractor is in compliance with applicable laws and regulations. The legislative body shall not renew or extend the contract prior to receiving and considering the audit report.

(2) The contractor shall reimburse the city for the cost of the audit.

~~(E)~~

(F) The contract shall include provisions for an audit by the city, or an independent auditor approved by the city, to determine whether and to what extent the anticipated cost savings have actually been realized. The city shall not renew or extend the contract before receiving and considering the audit report.

(b) This section does not preclude a city from adopting more restrictive rules regarding the contracting of public services.

(c) When otherwise permitted by law, the absence of any requirement of subdivision (a) shall not prevent personal services contracting when any of the following conditions are met:

(1) The contract is for a new city function and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.

(2) The services contracted cannot be performed satisfactorily by city employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available among city employees.

(3) The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as "service agreements," shall include, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.

(4) The legislative, administrative, or legal goals and purposes cannot be accomplished through the utilization of city employees. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts shall include, but not be limited to, obtaining expert witnesses in litigation.

(5) The nature of the work is such that the standards of this title for emergency appointments apply. These contracts shall conform with Section 45080.

(6) Public entities or officials need private counsel because a conflict of interest on the part of the city attorney's office prevents it from representing the public entity or official without compromising its position. These contracts shall require the written consent of the city attorney.

(7) The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the city in the location where the services are to be performed.

(8) The contractor will conduct training courses for which appropriately qualified city employee instructors are not available, provided that permanent instructor positions in academies or similar settings shall be filled by city employees.

(9) The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation by city employees would frustrate their very purpose.

(d) All persons who provide services to a city under conditions constituting an employment relationship shall be employed directly by the city.

(e) (1) Except as provided in paragraph (2), this section shall apply to all cities, including cities that have adopted a merit or civil service system.

(2) This section does not apply to a charter city formed pursuant to Section 3 of Article XI of the California Constitution.

(f) (1) This section does not apply to any contract for services described in Section 4525 or 4529.10.

(2) This section does not apply to any contract that is subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(3) This section does not apply to a contract for public transit services, including paratransit services, if the county's transit services are fully funded by Federal Transit Administration assistance and the county is thereby subject to the guidelines established in FTA Circular 4220.1F or any subsequent guidelines or revisions issued by the Federal Transit Administration.

(g) This section shall apply to personal services contracts entered into, renewed, or extended on or after January 1, 2018.

SEC. 4. Section 37103.2 is added to the Government Code, to read:

37103.2. (a) Each city shall maintain on its Internet Web site a searchable database of all contracts of an annual value in excess of ~~one hundred thousand dollars (\$100,000)~~ *five million dollars (\$5,000,000)* entered into pursuant to Section 37103.1. The database shall include, but is not limited to, the following:

(1) A description of the services provided under the contract.

(2) The name of the agency, department, or division responsible for providing the service in the absence of the contract.

(3) The name of the contractor and any subcontractors providing services under the contract.

(4) The effective and expiration dates of the contract.

(5) The annual amount paid pursuant to the contract to the contractor in the past three fiscal years and the current fiscal year, including the funding source for all amounts paid.

(6) The annual amount expected to be paid pursuant to the contract to the contractor in the next three fiscal years.

(7) The total projected cost of the contract for all fiscal years and the funding source for all amounts to be paid.

(8) The names of the employees of the contractor and any subcontractors providing services pursuant to the contract and their hourly pay rates, and the total number of full-time equivalent positions involved in performing the services under the contract.

(9) The names of any workers providing services pursuant to the contract as independent contractors and the compensation rates for such workers.

(b) The information identified in subdivision (a) shall be compiled in an annual service contractor expenditure budget accompanying the county budget, reflecting all spending on personal services contracts by the county.

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.