



Council Meeting Agenda

JANUARY 13, 2016
CITY COUNCIL CHAMBERS
3:30 P.M. Closed Session; 4:30 P.M. Regular Session
201 N. Broadway, Escondido, CA 92025

MAYOR	Sam Abed
DEPUTY MAYOR	Michael Morasco
COUNCIL MEMBERS	Olga Diaz Ed Gallo John Masson
CITY MANAGER	Graham Mitchell
CITY CLERK	Diane Halverson
CITY ATTORNEY	Jeffrey Epp
DIRECTOR OF COMMUNITY DEVELOPMENT	Jay Petrek
DIRECTOR OF PUBLIC WORKS	Ed Domingue

ELECTRONIC MEDIA:

Electronic media which members of the public wish to be used during any public comment period should be submitted to the City Clerk's Office at least 24 hours prior to the Council meeting at which it is to be shown.

The electronic media will be subject to a virus scan and must be compatible with the City's existing system. The media must be labeled with the name of the speaker, the comment period during which the media is to be played and contact information for the person presenting the media.

The time necessary to present any electronic media is considered part of the maximum time limit provided to speakers. City staff will queue the electronic information when the public member is called upon to speak. Materials shown to the Council during the meeting are part of the public record and may be retained by the Clerk.

The City of Escondido is not responsible for the content of any material presented, and the presentation and content of electronic media shall be subject to the same responsibilities regarding decorum and presentation as are applicable to live presentations.



Council Meeting Agenda

January 13, 2016
3:30 P.M. Meeting

Escondido City Council

CALL TO ORDER

ROLL CALL: Diaz, Gallo, Masson, Morasco, Abed

ORAL COMMUNICATIONS

In addition to speaking during particular agenda items, the public may address the Council on any item which is not on the agenda provided the item is within the subject matter jurisdiction of the City Council. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.) Speakers are limited to only one opportunity to address the Council under Oral Communications.

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

- I. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)**
- a. **Property:** 115 West Woodward Avenue
City Negotiator: Debra Lundy, Real Property Manager
Negotiating Parties: Boys and Girls Club
Under Negotiation: Price and Terms of Agreement

 - b. **Property:** North of East Valley Parkway (between Bevin Drive and Lake Wohlford Road)
[Portions of APNs: 225-141-40, 225-141-27, and 225-141-34]
City Negotiator: Debra Lundy, Real Property Manager
Negotiating Parties: El Caballo Park Conservancy
Under Negotiation: Price and Terms of Agreement

 - c. **Property:** Lake Wohlford Road (6 Acre Portion of APN: 190-110-17)
City Negotiator: Debra Lundy, Real Property Manager
Negotiating Parties: John & Ann O'Flynn DBA Lake Wohlford Resort
Under Negotiation: Price and Terms of Agreement

ADJOURNMENT



Council Meeting Agenda

January 13, 2016
4:30 P.M. Meeting

Escondido City Council
and as Successor Agency to the CDC

CALL TO ORDER

MOMENT OF REFLECTION:

City Council agendas allow an opportunity for a moment of silence and reflection at the beginning of the evening meeting. The City does not participate in the selection of speakers for this portion of the agenda, and does not endorse or sanction any remarks made by individuals during this time. If you wish to be recognized during this portion of the agenda, please notify the City Clerk in advance.

FLAG SALUTE

ROLL CALL: Diaz, Gallo, Masson, Morasco, Abed

PRESENTATIONS: Hidden Valley Kiwanis Club Car Seats Gifted to Police Department
Police Captain Promotions

ORAL COMMUNICATIONS

The public may address the Council on any item that is not on the agenda and that is within the subject matter jurisdiction of the legislative body. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.) NOTE: Depending on the number of requests, comments may be reduced to less than 3 minutes per speaker and limited to a total of 15 minutes. Any remaining speakers will be heard during Oral Communications at the end of the meeting.

CONSENT CALENDAR

Items on the Consent Calendar are not discussed individually and are approved in a single motion. However, Council members always have the option to have an item considered separately, either on their own request or at the request of staff or a member of the public.

1. [AFFIDAVITS OF PUBLICATION, MAILING AND POSTING \(COUNCIL/SUCCESSOR AGENCY/RRB\)](#)
2. [APPROVAL OF WARRANT REGISTER \(Council/Successor Agency \)](#)
3. [APPROVAL OF MINUTES: A\) Regular Meeting of December 2, 2015 B\) Regular Meeting of December 9, 2015](#)

4. [OVERSIGHT BOARD VACANCY -](#)

Request Council approve the Mayoral appointment to the Oversight Board.

Staff Recommendation: **Approval (City Attorney's Office: Jeffrey Epp)**

5. [ADOPTION OF RESOLUTION NO. 2016-12 APPROVING RECOGNIZED OBLIGATION PAYMENT SCHEDULE \(ROPS 16-17\) FOR JULY 2016 THRU JUNE 2017 -](#)

Request Council approve the adoption of the Recognized Obligation Payment Schedule (ROPS 16-17) so that the Successor Agency may continue to make payments due for enforceable obligations.

Staff Recommendation: **Approval (Finance Department: Sheryl Bennett)**

RESOLUTION NO. 2016-12

6. [9-1-1 EMERGENCY TELEPHONE SYSTEM REPLACEMENT AND BUDGET ADJUSTMENT -](#)

Request Council approve accepting \$383,452.20 from the California Office of Emergency Services (CalOES) to replace the Escondido Police and Fire 9-1-1 Emergency Phone System; authorize the Chief of Police or his designee to execute program documents on behalf of the City; and approve budget adjustments needed to spend program funds.

Staff Recommendation: **Approval (Police Department: Craig Carter)**

7. [FIRE/FIRE EMERGENCY MANAGEMENT DEPARTMENT REORGANIZATION, POSITION RECLASSIFICATION, AND BUDGET ADJUSTMENT -](#)

Request Council approve a proposed reorganization of the Fire/Fire Emergency Management Department, by utilizing the cost savings from reclassifying the Fire Marshal position and the elimination of the EMS contractual agreement with the City of San Marcos and an increase in permit revenue generated through the Fire Prevention Bureau.

Staff Recommendation: **Approval (Fire Department: Michael Lowry)**

8. [BUILDING DIVISION BUDGET ADJUSTMENT -](#)

Request Council approve a Building Division budget adjustment to increase the cost-recovery Professional Services budget to fund plan review services from EsGil Corporation and receive information about a possible restatement of a vacated fourth building inspector position. Staff will return to City Council at a future meeting for possible action regarding the building inspector position with potential funding options.

Staff Recommendation: **Approval (Community Development Department: Jay Petrek)**

9. [NOTICE OF COMPLETION: EMERGENCY SEWER OUTFALL REPAIR WORK -](#)
Request Council approve authorizing the Director of Utilities to file a Notice of Completion for the Emergency Sewer Outfall Repair Work.
Staff Recommendation: **Approval (Utilities Department: Christopher McKinney)**
RESOLUTION NO. 2016-04
10. [FINAL MAP, ESCONDIDO TRACT 894, LOCATED AT 1026 LEHNER AVENUE -](#)
Request Council approve the Final Map for Tract 894, an 11 Lot Residential Subdivision located at 1026 Lehner Avenue.
Staff Recommendation: **Approval (Public Works Department/Engineering: Ed Domingue)**
11. [FINAL MAP, ESCONDIDO TRACT SUB 13-0003, LOCATED AT 836 STANLEY AVENUE -](#)
Request Council approve the Final Map for Tract SUB 13-0003, a 16 Lot Residential Subdivision located at 836 Stanley Avenue.
Staff Recommendation: **Approval (Public Works Department/Engineering: Ed Domingue)**
12. [SANDAG TRANSNET ACTIVE TRANSPORTATION PROGRAM AND SMART GROWTH INCENTIVE PROGRAM BUDGET ADJUSTMENT -](#)
Request Council approve a budget adjustment to expend grant funds awarded by the San Diego Association of Governments (SANDAG) for the El Norte Signalized Pedestrian Crossing and Escondido Transit Center Active Transportation Connections projects.
Staff Recommendation: **Approval (Public Works Department: Ed Domingue)**
13. [AWARD OF CONSULTING AGREEMENT FOR DESIGN OF ESCONDIDO CREEK MISSING LINK PROJECT TO KOA CORPORATION -](#)
Request Council approve authorizing the Mayor and City Clerk to execute a Consulting Agreement for \$176,973 with KOA Corporation for design of the Escondido Creek Missing Link Project.
Staff Recommendation: **Approval (Public Works Department: Ed Domingue)**
RESOLUTION NO. 2016-06

CONSENT – RESOLUTIONS AND ORDINANCES (COUNCIL/SUCCESSOR AGENCY/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/Successor Agency/RRB at a previous City Council/Successor Agency/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

PUBLIC HEARINGS

14. [LOCAL REGISTER DESIGNATION OF THE PROPERTY AT 225 EAST FOURTH AVENUE \(HP 15-0004\) -](#)
Request Council approve the listing of the property at 225 East Fourth Avenue on the City's Local Register of Historic Places and approve the CEQA Exemption.
Staff Recommendation: **Approval (Community Development Department: Jay Petrek)**
RESOLUTION NO. 2016-02

15. ORDINANCE 2016-01 AMENDING CHAPTER 33 AND DELETING CHAPTER 16F OF THE ESCONDIDO MUNICIPAL CODE PERTAINING TO COMMERCIAL MEDICAL CANNABIS (MARIJUANA) LAND USES AND BUSINESSES (AZ 15-0004) -

Request Council approve amending Chapter 33 (Zoning Code), Article 57, to explicitly prohibit the cultivation and delivery of medical cannabis (marijuana), to maintain the prohibition of medical marijuana dispensaries in the City of Escondido and to delete Escondido Municipal Code Chapter 16F (Medical Marijuana Dispensaries).

Staff Recommendation: **Approval (Community Development Department: Jay Petrek)**

ORDINANCE NO. 2016-01 (First Reading and Introduction)

CURRENT BUSINESS

16. INTERIM FIRE CHIEF APPOINTMENT; 180 DAY WAITING PERIOD EXCEPTION -

Request Council approve the appointment of Michael Lowry as Interim Fire Chief, to oversee the operations of the Fire Department until the vacancy is filled via a promotional recruitment.

Staff Recommendation: **Approval (City Manager's Office: Graham Mitchell)**

RESOLUTION NO. 2016-08

17. VISTA VERDE RESERVOIR REPLACEMENT PROJECT - PHASE II: BID AWARD FOR CONSTRUCTION, BUDGET ADJUSTMENT, AND AWARD OF CONSULTING AGREEMENT FOR CONSTRUCTION MANAGEMENT -

Request Council approve authorizing the Mayor and City Clerk to execute a Public Improvement Agreement with Pacific Hydrotech Corporation, the lowest responsive and responsible bidder, in the amount of \$9,396,344 for construction of the Vista Verde Reservoir Replacement Project - Phase II; authorize the Mayor and City Clerk to execute a Consulting Agreement with Butier in the amount of \$671,540 for construction management services for the Vista Verde Reservoir Replacement Project - Phase II; and approve a budget adjustment in the amount of \$2,866,700.

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

A) RESOLUTION NO. 2016-03 B) RESOLUTION NO. 2016-13

18. INCREASE APPLICATION AMOUNT OF FUTURE STATE REVOLVING FUND LOANS FOR THREE RECYCLED WATER DISTRIBUTION EXPANSION PROJECTS -

Request Council approve authorizing repayment of three State Revolving Fund (SRF) Loans for Capital Improvement Projects (CIPs) that are part of the recycled water distribution system expansion. The repayment resolutions would increase the authorized application amount for each project.

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

A) RESOLUTION NO. 2016-09 B) RESOLUTION NO. 2016-10 C) RESOLUTION NO. 2016-11

19. APPROVAL OF STORM WATER DESIGN MANUAL TO COMPLY WITH R9-2013-0001 -

Request Council approve the adoption of the Model Regional Best Management Practice Design Manual ("Storm Water Design Manual") prepared for the City of Escondido.

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

RESOLUTION NO. 2016-01

FUTURE AGENDA

20. [FUTURE AGENDA -](#)

The purpose of this item is to identify issues presently known to staff or which members of the Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

Staff Recommendation: **None (City Clerk's Office: Diane Halverson)**

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

CITY MANAGER'S UPDATE/BRIEFING

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development.

- [CITY MANAGER'S UPDATE -](#)

ORAL COMMUNICATIONS

The public may address the Council on any item that is not on the agenda and that is within the subject matter jurisdiction of the legislative body. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. Speakers are limited to only one opportunity to address the Council under Oral Communications.

ADJOURNMENT

UPCOMING MEETING SCHEDULE

Date	Day	Time	Meeting Type	Location
January 20	-	-	No Meeting	-
January 27	-	-	No Meeting	-
February 3	Wednesday	3:30 & 4:30 p.m.	Regular Meeting	Council Chambers
February 10	Wednesday	3:30 & 4:30 p.m.	Regular Meeting	Council Chambers

TO ADDRESS THE COUNCIL

The public may address the City Council on any agenda item. Please complete a Speaker's form and give it to the City Clerk. Submission of Speaker forms prior to the discussion of an item is highly encouraged. Comments are generally limited to 3 minutes.

If you wish to speak concerning an item not on the agenda, you may do so under "Oral Communications." Please complete a Speaker's form as noted above.

Nomination forms for Community Awards are available at the Escondido City Clerk's Office or at <http://www.escondido.org/city-clerks-office.aspx>

Handouts for the City Council should be given to the City Clerk. To address the Council, use the podium in the center of the Chambers, STATE YOUR NAME FOR THE RECORD and speak directly into the microphone.

AGENDA, STAFF REPORTS AND BACK-UP MATERIALS ARE AVAILABLE:

- Online at <http://www.escondido.org/meeting-agendas.aspx>
- In the City Clerk's Office at City Hall
- In the Library (239 S. Kalmia) during regular business hours and
- Placed in the Council Chambers (See: City Clerk/Minutes Clerk) immediately before and during the Council meeting.

AVAILABILITY OF SUPPLEMENTAL MATERIALS AFTER AGENDA POSTING: Any supplemental writings or documents provided to the City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's Office located at 201 N. Broadway during normal business hours, or in the Council Chambers while the meeting is in session.

LIVE BROADCAST

Council meetings are broadcast live on Cox Cable Channel 19 and U-verse Channel 99 – Escondido Gov TV. They can also be viewed the following Sunday and Monday evenings at 6:00 p.m. on those same channels. The Council meetings are also available live via the Internet by accessing the City's website at www.escondido.org, and clicking the "Live Streaming –City Council Meeting now in progress" button on the home page.

Please turn off all cellular phones and pagers while the meeting is in session.

**The City Council is scheduled to meet the first four Wednesdays
of the month at 3:30 in Closed Session and 4:30 in Open Session.
(Verify schedule with City Clerk's Office)**

**Members of the Council also sit as the Successor Agency to the CDC, Escondido Joint Powers
Financing Authority and the Mobilehome Rent Review Board.**

**CITY HALL HOURS OF OPERATION
Monday-Friday 8:00 a.m. to 5:00 p.m.**



If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4643. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

Listening devices are available for the hearing impaired – please see the City Clerk.



Agenda Item No.: 3
Date: January 13, 2016

APPROVAL

OF

MINUTES

CITY OF ESCONDIDO
December 2, 2015
3:30 P.M. Meeting Minutes
Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 3:30 p.m. on Wednesday, December 2, 2015 in the Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE:

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Councilmember John Masson, Deputy Mayor Michael Morasco, and Mayor Sam Abed. Quorum present.

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

MOTION: Moved by Councilmember Masson and Seconded by Councilmember Diaz to recess to Closed Session. Motion carried unanimously.

- I. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)**
- a. **Property:** 2269 East Valley Parkway
City Negotiator: Debra Lundy, Real Property Manager
Negotiating Parties: American Heritage Charter Schools
Under Negotiation: Price and Terms of Agreement

ADJOURNMENT

Mayor Abed adjourned the meeting at 3:45 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
December 2, 2015
4:30 P.M. Meeting Minutes

Escondido City Council
Mobilehome Rent Review Board

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 4:30 p.m. on Wednesday, December 2, 2015 in the Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION:

Chris Montgomery led the Moment of Reflection.

FLAG SALUTE

Mayor Abed led the Flag Salute.

ATTENDANCE:

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Councilmember John Masson, Deputy Mayor Michael Morasco, and Mayor Sam Abed. Quorum present.

Also present were: Clay Phillips, City Manager; Jeffrey Epp, City Attorney; Jay Petrek, Community Development Director; Ed Domingue, Director of Public Works; Diane Halverson, City Clerk; and Michael Thorne, Minutes Clerk.

ORAL COMMUNICATIONS

Danielle Parr, Escondido, expressed concern regarding a right of way violation for a basketball hoop near her property.

Nicole O, Escondido, shared information about the Escondido Ice-O-Plex Christmas Show.

CONSENT CALENDAR

Mayor Abed removed item 6 from the Consent Calendar for discussion.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Gallo to approve the following Consent Calendar items with the exception of item 6. Motion carried unanimously.

- 1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
- 2. APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
- 3. APPROVAL OF MINUTES: None Scheduled**

4. **REJECT ALL BIDS FOR THE SOUTHWEST SEWER REALIGNMENT PROJECT -**
Request Council approve rejecting all bids for the Southwest Sewer Realignment Project and authorize staff to re-advertise for bids on the project. (File No. 0600-10 [A-3164])

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

RESOLUTION NO. 2015-202

5. **BUDGET ADJUSTMENT REQUEST AND AWARD OF CONSULTING AGREEMENT FOR DESIGN AND ENGINEERING SERVICES FOR THE RECYCLED WATER EMERGENCY STORAGE PONDS**
Request Council approve a budget adjustment in the amount of \$75,000 to Capital Improvement Program (CIP) No. 801507 (Recycled Water Easterly Agriculture Distribution System) from CIP No. 804808 (Trunk Main/Centre City Parkway - Auto Park Way) and authorize the Mayor and City Clerk to execute a Consulting Agreement in the amount of \$189,874 with Water Synergy, Inc. for design and engineering services for the Recycled Water Emergency Storage Ponds Project. (File No. 0600-10 [A-3169])

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

RESOLUTION NO. 2015-196

6. **CITY COUNCIL MEMBER AND MAYOR COMPENSATION -**
Request Council consider adopting Ordinance No. 2015-24 amending Section 2-28 of the Escondido Municipal Code to increase the salary for the City Council Members from \$1,725.97 per month to \$1898.57 per month, effective on the date the City Council Members elected in 2016 are sworn into office. (File No. 0680-10)

Staff Recommendation: **Approval (City Attorney's Office: Jeffrey Epp)**

ORDINANCE NO. 2015-24 (First Reading and Introduction)

Councilmember Masson stated he would abstain from the vote.

MOTION: Moved by Councilmember Gallo and seconded by Deputy Mayor Morasco to approve amending Section 2-28 of the Escondido Municipal Code to increase the salary for the City Council Members from \$1,725.97 per month to \$1898.57 per month, effective on the date the City Council Members elected in 2016 are sworn into office and introduce Ordinance No. 2015-24. Ayes: Gallo, Morasco and Abed. Noes: Diaz. Abstained: Masson. Motion carried.

7. **NOTICE OF COMPLETION FOR THE ELM STREET IMPROVEMENT PROJECT -**
Request Council approve and accept the Elm Street Improvement Project and authorize staff to file a Notice of Completion for the project located on Elm Street between East Washington Avenue and the Escondido Creek Trail. (File No. 0600-10 [A-3133])

Staff Recommendation: **Approval (Public Works Department: Ed Domingue)**

8. **GRANT OF EASEMENT DEED TO SAN DIEGO GAS & ELECTRIC COMPANY FOR INSTALLATION AND MAINTENANCE OF OVERHEAD ELECTRIC FACILITIES AND APPURTENANCES ADJACENT TO EL NORTE PARKWAY -**
Request Council approve authorizing the Real Property Manager to execute an Easement Deed for the benefit of San Diego Gas & Electric Company (SDG&E) for installation and maintenance of overhead electric facilities and appurtenances. (File No. 0690-80)

Staff Recommendation: **Approval (City Manager's Office: Joyce Masterson/Debra Lundy)**

RESOLUTION NO. 2015-206

9. FISCAL YEAR 2015 STATE HOMELAND SECURITY GRANT PROGRAM GRANT ACCEPTANCE AND BUDGET ADJUSTMENT -

Request Council approve accepting \$117,753 in funding from the Department of Homeland Security for the Fiscal Year 2015 State Homeland Security Grant Program; authorize the Fire Chief to execute, on behalf of the City, all documents required for the management of this grant; and approve the necessary budget adjustment to establish new projects for tracking of these grant funds. (File No. 0480-70)

Staff Recommendation: **Approval (Fire Department: Michael Lowry)**

10. PURCHASE ONE (1) KME TYPE VI BRUSH ENGINE -

Request Council approve authorizing the Fleet Services Division to purchase one (1) KME Type VI Brush Engine in the amount of \$263,157.33 through a Cooperative Purchase Contract with the City of Los Angeles. (File No. 0470-35)

Staff Recommendation: **Approval (Fire Department: Michael Lowry)**

RESOLUTION NO. 2015-213

CONSENT – RESOLUTIONS AND ORDINANCES (COUNCIL/SUCCESSOR AGENCY/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/Successor Agency/RRB at a previous City Council/Successor Agency/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

11. MASTER AND PRECISE DEVELOPMENT PLAN AND TENTATIVE PARCEL MAP FOR THE DEVELOPMENT OF A MIXED-USE PROJECT IN THE PD-MU ZONE (PHG 15-0009, SUB 15-0008) -

Approved on November 18, 2015 with a vote of 5/0 (File No. 0800-40)

ORDINANCE NO. 2015-23 (Second Reading and Adoption)

PUBLIC HEARINGS

12. SHORT-FORM RENT INCREASE APPLICATION FOR GREENCREST MOBILEHOME PARK -

Request Council consider the short-form rent increase application submitted by Greencrest Mobilehome Park and if approved, grant an increase of seventy-five percent (75%) of the change in the Consumer Price Index, or 0.592% (an average of \$2.76) for the period of June 30, 2014 to June 30, 2015. (File No. 0697-20-10047)

Staff Recommendation: **Consider for Approval (Community Development Department: Jay Petrek)**

RRB RESOLUTION NO. 2015-06

Karen Youel, Housing Staff, presented the staff report, utilizing a PowerPoint presentation.

Andrew Modglin, Code Enforcement, was available to answer questions.

Jim Younce, Owners Representative for GreenCrest Mobile Homes, was available to answer questions.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Masson to approve the short-form rent increase application submitted by Greencrest Mobilehome Park and grant an increase of seventy-five percent (75%) of the change in the Consumer Price Index, or 0.592% (an average of \$2.76) for the period of June 30, 2014 to June 30, 2015 and adopt RRB Resolution No. 2015-06. Motion carried unanimously.

13. LOCAL REGISTER DESIGNATION AND MILLS ACT CONTRACTS FOR THE PROPERTY AT 423 SOUTH IVY STREET (HP 15-0002) -

Request Council approve listing the structures on the City's Local Register; authorize entering into Mills Act contracts; and approve the CEQA exemption. (File No. 0880-10)

Staff Recommendation: **Approval (Community Development Department: Jay Petrek)**

RESOLUTION NO. 2015-200

Paul Bingham, Planning, presented the staff report, utilizing a PowerPoint presentation.

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Gallo to approve listing the structures on the City's Local Register; authorize entering into Mills Act contracts; and approve the CEQA exemption and adopt Resolution No. 2015-200. Motion carried unanimously.

FUTURE AGENDA

14. FUTURE AGENDA -

The purpose of this item is to identify issues presently known to staff or which members of the Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

Staff Recommendation: **None (City Clerk's Office: Diane Halverson)**

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

Councilmember Gallo reported on a North County Transit District meeting.

Mayor Abed reported on a SANDAG policy meeting and updates that will reflect state and federal laws.

CITY MANAGER'S UPDATE/BRIEFING

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development.

- **CITY MANAGER'S UPDATE -**

ORAL COMMUNICATIONS

ADJOURNMENT

Mayor Abed adjourned the meeting at 5:01 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
December 9, 2015
3:30 P.M. Meeting Minutes
Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 3:30 p.m. on Wednesday, December 9, 2015 in the Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE:

The following members were present: Councilmember Ed Gallo, Councilmember John Masson, Deputy Mayor Michael Morasco, and Mayor Sam Abed. Councilmember Olga Diaz was absent. Quorum present.

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

MOTION: Moved by Deputy Mayor Morasco and Seconded by Councilmember Gallo to recess to Closed Session. Motion carried unanimously.

I. CONFERENCE WITH LEGAL COUNSEL-- EXISTING LITIGATION (Government Code 54956.9(d)(1))

Case Name: Kevin Stowe v. City of Escondido, et al.
Case No: 37-2014-00040886-CU-WM-NC

Jeffrey Epp, City Attorney, announced that in the matter of Stowe v. City of Escondido, the City Council determined to appeal the trial court's ruling.

ADJOURNMENT

Mayor Abed adjourned the meeting at 4:20 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY OF ESCONDIDO
December 9, 2015
4:30 P.M. Meeting Minutes

Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 4:30 p.m. on Wednesday, December 9, 2015 in the Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION:

Dick Bridgman led the Moment of Reflection.

FLAG SALUTE

Mayor Abed led the Flag Salute.

PROCLAMATION

Clay Phillips Retirement after 30 Years of Service.

ATTENDANCE:

The following members were present: Councilmember Ed Gallo, Councilmember John Masson, Deputy Mayor Michael Morasco, and Mayor Sam Abed. Councilmember Olga Diaz was absent. Quorum present.

Also present were: Clay Phillips, City Manager; Jeffrey Epp, City Attorney; Jay Petrek, Community Development Director; Ed Domingue, Director of Public Works; Diane Halverson, City Clerk; and Michael Thorne, Minutes Clerk.

ORAL COMMUNICATIONS

CONSENT CALENDAR

Mayor Abed removed item 4 from the Consent Calendar for discussion.

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Masson to approve the following Consent Calendar items with the exception of item 4. Ayes: Gallo, Masson, Morasco, and Abed. Noes: None. Absent: Diaz. Motion carried.

- 1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
- 2. APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
- 3. APPROVAL OF MINUTES: Regular Meeting of November 18, 2015**

4. ASSISTANCE LEAGUE OF INLAND NORTH COUNTY DONATION OF AUTOMATIC ELECTRONIC DEFIBRILLATORS -

Request Council approve authorizing the Escondido Police Department to accept 17 donated Automatic Electronic Defibrillators (AED) from the Assistance League of Inland North County. (File No. 0150-20)

Staff Recommendation: **Approval (Police Department: Craig Carter)**

Mike Lowry, Fire Chief, and Sergeant Scott Walters presented information on Automatic Defibrillators and thanked the Assistance League of Inland North County for their donation.

MOTION: Moved by Councilmember Masson and seconded by Councilmember Gallo to approve authorizing the Escondido Police Department to accept 17 donated Automatic Electronic Defibrillators (AED) from the Assistance League of Inland North County. Ayes: Gallo, Masson, Morasco and Abed. Noes: None. Absent: Diaz. Motion carried.

5. SAN DIEGO COUNTY CAL-ID GRANT AND BUDGET ADJUSTMENT -

Request Council approve authorizing the Police Department to accept a five-year San Diego County Cal-ID Grant from the County of San Diego Remote Access Network (RAN); authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. (File No. 0480-70)

Staff Recommendation: **Approval (Police Department: Craig Carter)**

6. PROPOSED RATE INCREASE FROM ESCONDIDO DISPOSAL FOR ANNUAL CPI INCREASE TO SOLID WASTE AND RECYCLING RATES AND FEES FOR RESIDENTIAL AND COMMERCIAL COLLECTIONS -

Request Council approve revising the rates for Residential and Commercial Solid Waste and Recycling Services. Effective February 8, 2016, a 0.789% increase would apply to all residential collection services. Effective February 1, 2016, a 0.789% increase would apply to all commercial collection services. (File No. 0600-10 [A-2340])

Staff Recommendation: **Approval (Public Works Department/Engineering: Ed Domingue)**

RESOLUTION NO. 2015-210

7. ANNUAL FINANCIAL REPORT ON CAPITAL FUNDS FUNDED BY DEVELOPER FEES PER GOVERNMENT CODE SECTION 66006 -

Request Council receive and file the annual financial report on Capital Funds funded by Developer Fees per Government Code Section 66006. (File No. 0480-45)

Staff Recommendation: **Receive and File (Finance Department: Sheryl Bennett)**

8. ANNUAL SUBMISSION OF THE CITY OF ESCONDIDO'S INVESTMENT POLICY -

Request Council approve the June 2015 Investment Policy. (File No.0490-60)

Staff Recommendation: **Approve (City Treasurer's Office: Kenneth C. Hugins)**

RESOLUTION NO. 2015-140

9. TREASURER'S INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 30, 2015 -

Request Council receive and file the Quarterly Investment Report. (File No. 0490-55)

Staff Recommendation: **Receive and File (City Treasurer's Office: Kenneth C. Hugins)**

10. GROUND LEASE AGREEMENT WITH AMERICAN HERITAGE CHARTER SCHOOLS AT 2269 EAST VALLEY PARKWAY -

Request Council approve authorizing the Real Property Manager and City Clerk to execute a Ground Lease Agreement with American Heritage Charter Schools at 2269 East Valley Parkway and authorize a First Amendment to the Lease Agreement with Heritage Digital Academy at 2255 East Valley Parkway. (File No. 0600-10 [A-3090] [A-3175])

Staff Recommendation: **Approval (City Manager's Office: Joyce Masterson/Debra Lundy)**

A) RESOLUTION NO. 2015-214 B) RESOLUTION NO. 2015-216

CONSENT – RESOLUTIONS AND ORDINANCES (COUNCIL/SUCCESSOR AGENCY/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/Successor Agency/RRB at a previous City Council/Successor Agency/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

11. CITY COUNCIL MEMBER AND MAYOR COMPENSATION -

Approved on December 2, 2015 with a vote of 3/1/1 (Diaz voting no, Masson abstained) (File No. 0680-10)

ORDINANCE NO. 2015-24 (Second Reading and Adoption)

PUBLIC HEARINGS

12. PLOT PLAN AND FINAL ENVIRONMENTAL IMPACT REPORT FOR A GROCERY STORE AND RESTAURANT AT CENTERPOINTE 78, A NEW 3.7-ACRE SHOPPING CENTER (ADM 13-0127 / ENV 13-0009) -

Request Council approve a Plot Plan for a new commercial establishment to include a 43,681-SF grocery store and a 3,200-SF drive-thru restaurant, and certify a Final Environmental Impact Report. (File No. 0800-30)

Staff Recommendation: **Approval (Community Development Department: Jay Petrek)**

RESOLUTION NO. 2015-203

Jay Petrek, Director of Community Development, presented the staff report, utilizing a PowerPoint presentation.

Jim Simmons, Escondido, presented information about the project.

Frank Turlo, Escondido, expressed support for the project.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Masson to approve a Plot Plan for a new commercial establishment to include a 43,681-SF grocery store and a 3,200-SF drive-thru restaurant, and certify a Final Environmental Impact Report and adopt Resolution No. 2015-203. Ayes: Gallo, Masson, Morasco and Abed. Noes: None. Absent: Diaz. Motion carried.

CURRENT BUSINESS

13. 2014 ASSISTANCE TO FIREFIGHTERS GRANT -

Request Council approve accepting a grant award of \$498,518 (90% Federal share) in Federal grant funding from the Federal FY2014 Assistance to Firefighters Grant Program; approve funding \$49,852 (10% matching share) with General Capital Funds; authorize the Fire Chief to execute grant documents on behalf of the City; and authorize the necessary budget adjustments to track spending of these grant funds. (File No. 0480-70)

Staff Recommendation: **Approval (Fire Department: Michael Lowry)**

Mike Lowry, Fire Chief, and Russell Knowles, Deputy Fire Chief, presented the staff report, utilizing a PowerPoint presentation.

MOTION: Moved by Councilmember Masson and seconded by Councilmember Gallo to approve accepting a grant award of \$498,518 (90% Federal share) in Federal grant funding from the Federal FY2014 Assistance to Firefighters Grant Program; approve funding \$49,852 (10% matching share) with General Capital Funds; authorize the Fire Chief to execute grant documents on behalf of the City; and authorize the necessary budget adjustments to track spending of these grant funds. Ayes: Gallo, Masson, Morasco and Abed. Noes: None. Absent: Diaz. Motion carried.

14. 2015-2016 CITY COUNCIL ACTION PLAN - FISCAL MANAGEMENT -

Request Council approve amending the City's Fund Balance policy to establish the appropriate General Fund target Reserve based on a risk-based analysis as recommended by the Government Finance Officers Association. (File No. 0610-90)

Staff Recommendation: **Approval (Finance Department: Sheryl Bennett)**

RESOLUTION NO. 2015-215(R)

Sheryl Bennett, Director of Administrative Services and Joan Ryan, Assistant Director of Finance, presented the staff report, utilizing a PowerPoint presentation.

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Masson to approve amending the City's Fund Balance policy to establish the appropriate General Fund target Reserve based on a risk-based analysis as recommended by the Government Finance Officers Association and adopt Resolution No. 2015-215(R). Ayes: Gallo, Masson, Morasco and Abed. Noes: None. Absent: Diaz. Motion carried.

15. BUDGET ADJUSTMENT REQUEST FOR THE ESCONDIDO-VISTA WATER TREATMENT PLANT DISINFECTION AND ELECTRICAL SYSTEM UPGRADES PROJECT -

Request Council approve a budget adjustment in the amount of \$1,144,000 to Capital Improvement Program (CIP) No. 701001 from CIP No. 704201 (80%) and CIP Reimbursement (20%) to cover the costs of potential changes required to complete construction of the Escondido-Vista Water Treatment Plant Disinfection and Electrical System Upgrades Project. This budget adjustment will transfer 9% of the permitted 10% contingency to the project budget. (File No. 0430-80)

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

Christopher McKinney, Director of Utilities, presented the staff report, utilizing a PowerPoint presentation.

MOTION: Moved by Councilmember Masson and seconded by Deputy Mayor Morasco to approve a budget adjustment in the amount of \$1,144,000 to Capital Improvement Program (CIP) No. 701001 from CIP No. 704201 (80%) and CIP Reimbursement (20%) to cover the costs of potential changes required to complete construction of the Escondido-Vista Water Treatment Plant Disinfection and Electrical System Upgrades Project. This budget adjustment will transfer 9% of the permitted 10% contingency to the project budget. Ayes: Gallo, Masson, Morasco and Abed. Noes: None. Absent: Diaz. Motion carried.

16. HALE AVENUE RESOURCE RECOVERY FACILITY PHASE III PRIMARY TREATMENT BUILDING AND ODOR CONTROL MODIFICATIONS PROJECT: BID AWARD FOR CONSTRUCTION, BUDGET ADJUSTMENT, AND AWARD OF CONSULTING AGREEMENTS FOR CONSTRUCTION MANAGEMENT, ENGINEERING SUPPORT DURING CONSTRUCTION, AND ELECTRICAL INSPECTION SERVICES -

Request Council approve authorizing the Mayor and City Clerk to execute the Public Improvement Agreement with J.F. Shea Construction, Inc., the lowest responsive and responsible bidder, in the amount of \$10,927,580 for construction; authorize the Mayor and City Clerk to execute the Consulting Agreement with Tran Consulting Engineers in the amount of \$119,210 for Engineering Services during construction; authorize the Mayor and City Clerk to execute the Consulting Agreement with Arcadis in the amount of \$754,796 for Construction Management Services; authorize the Mayor and City Clerk to execute a Consulting Agreement with Rockwell Construction Services in the amount of \$210,000 for Specialized Electrical Inspections; and approve a budget adjustment in the amount of \$8,189,266. (File No. 0600-10 [A-3162] [A-3170] [A-3171] [A-3172])

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

A) RESOLUTION NO. 2015-190 B) RESOLUTION NO. 2015-191

C) RESOLUTION NO. 2015-192 D) RESOLUTION NO. 2015-193

Angela Morrow, Deputy Director of Utilities Construction and Engineering, presented the staff report, utilizing a PowerPoint presentation.

MOTION: Moved by Deputy Mayor Morasco and seconded by Councilmember Masson to approve authorizing the Mayor and City Clerk to execute the Public Improvement Agreement with J.F. Shea Construction, Inc., the lowest responsive and responsible bidder, in the amount of \$10,927,580 for construction; authorize the Mayor and City Clerk to execute the Consulting Agreement with Tran Consulting Engineers in the amount of \$119,210 for Engineering Services during construction; authorize the Mayor and City Clerk to execute the Consulting Agreement with Arcadis in the amount of \$754,796 for Construction Management Services; authorize the Mayor and City Clerk to execute a Consulting Agreement with Rockwell Construction Services in the amount of \$210,000 for Specialized Electrical Inspections; and approve a budget adjustment in the amount of \$8,189,266 and adopt Resolution No. 2015-190, Resolution No. 2015-191, Resolution No. 2015-192 and Resolution No. 2015-193. Ayes: Gallo, Masson, Morasco and Abed. Noes: None. Absent: Diaz. Motion carried.

17. VALIANO SEWER FACILITIES DEVELOPMENT MEMORANDUM OF UNDERSTANDING AND TRAFFIC MITIGATION FUNDING AGREEMENT -

Request Council approve a Sewer Facilities Development Memorandum of Understanding and a Traffic Mitigation Funding Agreement with Eden Hills Project Owner, LLC. (File No. 0600-80)

Staff Recommendation: **Approval (City Manager's Office: Graham Mitchell)**

RESOLUTION NO. 2015-209

Graham Mitchell, Assistant City Manager, presented the staff report, utilizing a PowerPoint presentation.

MOTION: Moved by Councilmember Masson and seconded by Deputy Mayor Morasco to approve a Sewer Facilities Development Memorandum of Understanding and a Traffic Mitigation Funding Agreement with Eden Hills Project Owner, LLC and adopt Resolution No. 2015-209. Ayes: Gallo, Masson, Morasco and Abed. Noes: None. Absent: Diaz. Motion carried.

WORKSHOP

18. EL NIÑO PREPARATION -

Due to the strong forecast of significant rain events this winter and the numerous inquiries from our citizens, staff will give a presentation on the efforts the City has taken so far, future efforts, resources available to our citizens, and actions our citizens can take to prepare for these anticipated events. (File No. 0110-20)

Staff Recommendation: **Receive and File (Public Works Department: Ed Domingue)**

Bud Oliveira, Deputy Director of Public Works, presented the staff report, utilizing a PowerPoint presentation.

NO ACTION, INFORMATION ONLY.

FUTURE AGENDA

19. FUTURE AGENDA -

The purpose of this item is to identify issues presently known to staff or which members of the Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

Staff Recommendation: **None (City Clerk's Office: Diane Halverson)**

COUNCIL MEMBERS SUBCOMMITTEE REPORTS

Councilmember Gallo stated he will attend a Dedication Ceremony at the Carlsbad Desalination Facility.

Councilmember Masson reported on the League of California Cities and his appointment to the Housing Committee and the Environmental Quality Committee.

Mayor Abed reported on the 78 corridor progress; reported SANDAG received presentations from the Public Safety Office and District Attorney's Office.

CITY MANAGER'S UPDATE/BRIEFING

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development.

- **CITY MANAGER'S UPDATE -**

ORAL COMMUNICATIONS

ADJOURNMENT

Mayor Abed adjourned the meeting at 7:01 p.m.

MAYOR

CITY CLERK

MINUTES CLERK

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 4

Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council

FROM: Jeffrey R. Epp, City Attorney

SUBJECT: Oversight Board Vacancy

RECOMMENDATION:

It is requested that City Council approve the Mayoral appointment to the Oversight Board.

BACKGROUND:

Pursuant to Health and Safety Code Section 34179, which deals with the dissolution of redevelopment agencies, each successor agency must have an Oversight Board ("Board") composed of seven (7) members.

The Oversight Board consists of two (2) members appointed by the County Board of Supervisors. The Board also includes two (2) members appointed by the Mayor for the city that formed the redevelopment agency (i.e. Mayor Abed) which includes a member representing former redevelopment agency employees. One member is to be appointed by the largest special district (by property tax share) with territory in the territorial jurisdiction of the former redevelopment agency. In the City's case, this is the Palomar Pomerado Health District. One member is appointed by the County Superintendent of Education or the County Board of Education. Finally, one member is appointed by the Chancellor of the California Community Colleges.

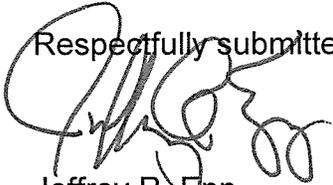
The Oversight Board for the former Escondido Redevelopment Agency has been serving since 2012. The City Council originally approved the Mayor's appointment of Clay Phillips and Gil Rojas as the members appointed by the City forming the redevelopment agency. In 2013 Gil Rojas retired and was replaced by the City's Director of Administrative Services, Sheryl Bennett. With the retirement of Clay Phillips, the Mayor has appointed new City Manager, Graham Mitchell, as a replacement.

Timely action on this appointment is requested because the City's next Recognized Obligation Payment Schedule (ROPS) is also on the City Council agenda and will be considered by the Oversight Board prior to February 1, 2016.

Oversight Board Vacancy
January 13, 2016
Page 2

Board members have personal immunity from suit for their actions taken within the scope of their responsibilities as Board members. A majority of the total membership of the Board (4 members) shall constitute a quorum for the transaction of business and a majority vote of the total board.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JEFFREY R. EPP', written over the text 'Respectfully submitted,'.

Jeffrey R. Epp
City Attorney

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 5
Date: January 13, 2016

TO: Honorable Mayor and Members of the Successor Agency
FROM: Sheryl Bennett, Director of Administrative Services
SUBJECT: Adoption of Resolution No. 2016-12 Approving Recognized Obligation Payment Schedule (ROPS 16-17) for July 2016 thru June 2017

RECOMMENDATION:

It is requested that the City Council approve Resolution No. 2016-12 to adopt the Recognized Obligation Payment Schedule (ROPS 16-17) so that the Successor Agency may continue to make payments due for enforceable obligations.

FISCAL ANALYSIS:

The Successor Agency is responsible for submitting to the Oversight Board a payment schedule for obligations of the Redevelopment Agency. The Oversight Board will forward this payment schedule to the State for approval. Once approved by the State, the County of San Diego will fund the payments from the County Redevelopment Property Tax Trust Fund (RPTTF).

PREVIOUS ACTION:

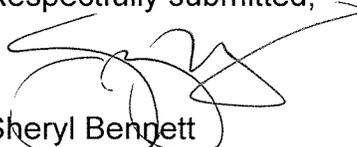
ROPS 15-16B was approved by the City on September 23, 2015.

BACKGROUND:

As part of the State of California's Dissolution of Redevelopment, the City as Successor Agency is required to adopt a Recognized Obligation Payment schedule and have it approved by the Oversight Board. This Obligation schedule lists payments to be made from July 1, 2016 through June 30, 2017. Below is a summary of these payments:

2007A and B Lease Revenue Bonds	\$7,276,089
Loan Repayment to the Traffic Impact Fund	50,000
Educational Revenue Augmentation Fund Payments	1,333,226
California Housing Finance Agency (CalHFA) Loans	2,705,000
Successor Agency Property Utilities	19,000
City Administrative Costs	254,330
<i>Total ROPS 16-17 Enforceable Obligations</i>	<u>\$11,637,645</u>

Respectfully submitted,


Sheryl Bennett
Director of Administrative Services

RESOLUTION NO. 2016-12

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AS THE SUCCESSOR AGENCY TO THE
ESCONDIDO REDEVELOPMENT AGENCY
ADOPTING A RECOGNIZED SCHEDULE OF
ENFORCEABLE OBLIGATIONS FOR THE
PERIOD OF JULY 2016 THRU JUNE 2017
PURSUANT TO HEALTH AND SAFETY
CODE SECTION 34177

WHEREAS, pursuant to authorizing Resolution No. 2012-16, the City Council of the City of Escondido elected to serve as the Successor Agency and Successor Housing Agency to the Escondido Redevelopment Agency; and

WHEREAS, pursuant to Health and Safety Code Section 34177, successor agencies are required to make payments due for enforceable obligations and adopt a Recognized Obligation Payment Schedule ("ROPS"); and

WHEREAS, pursuant to Health and Safety Code Section 34177, a ROPS must be adopted that lists all of the enforceable obligations within the meaning of Health and Safety Code Section 34167(d), and must thereafter be reviewed by other entities, updated, and published in a specific manner; and

WHEREAS, it is the intention of the City Council of the City of Escondido as the Successor Agency to the Escondido Redevelopment Agency to adopt the ROPS so that the Successor Agency may continue to make payments due for enforceable obligations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the City Council, as the Successor Agency to the Escondido Redevelopment Agency, hereby adopts the ROPS for the period of July 2016 to June 2017, which is attached hereto as Exhibit "A" and incorporated by this reference.

Recognized Obligation Payment Schedule (ROPS 16-17) - Summary

Filed for the July 1, 2016 through June 30, 2017 Period

Successor Agency: Escondido
County: San Diego

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)		16-17A Total	16-17B Total	ROPS 16-17 Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding				
A	Sources (B+C+D):	\$ 7,000	\$ 7,000	\$ 14,000
B	Bond Proceeds Funding	-	-	-
C	Reserve Balance Funding	-	-	-
D	Other Funding	7,000	7,000	14,000
E	Enforceable Obligations Funded with RPTTF Funding (F+G):	\$ 8,672,667	\$ 2,950,978	\$ 11,623,645
F	Non-Administrative Costs	8,545,502	2,823,813	11,369,315
G	Administrative Costs	127,165	127,165	254,330
H	Current Period Enforceable Obligations (A+E):	\$ 8,679,667	\$ 2,957,978	\$ 11,637,645

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby
certify that the above is a true and accurate Recognized Obligation
Payment Schedule for the above named successor agency.

Name Title
/s/ _____
Signature Date

Esccondido Recognized Obligation Payment Schedule (ROPS 16-17) - Report of Cash Balances
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see CASH BALANCE TIPS SHEET											
A	B	C	D	Fund Sources				G	H	I	
				Bond Proceeds	Reserve Balance	Prior ROPS RPTTF distributed as reserve for future period(s)	Other				RPTTF
		Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	Comments			
Cash Balance Information by ROPS Period											
ROPS 15-16A Actuals (07/01/15 - 12/31/15)											
1	Beginning Available Cash Balance (Actual 07/01/15)			96,125		534,888	6,799,348				
2	Revenue/Income (Actual 12/31/15) RPTTF amounts should tie to the ROPS 15-16A distribution from the County Auditor-Controller during June 2015					72,539					
3	Expenditures for ROPS 15-16A Enforceable Obligations (Actual 12/31/15)			32,025		90,532	6,799,348				
4	Retention of Available Cash Balance (Actual 12/31/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)										
5	ROPS 15-16A RPTTF Balances Remaining	No entry required									
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)			64,100		516,895					
ROPS 15-16B Estimate (01/01/16 - 06/30/16)											
7	Beginning Available Cash Balance (Actual 01/01/16) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)			64,100		516,895					
8	Revenue/Income (Estimate 06/30/16) RPTTF amounts should tie to the ROPS 15-16B distribution from the County Auditor-Controller during January 2016										
9	Expenditures for ROPS 15-16B Enforceable Obligations (Estimate 06/30/16)			64,100			14,000	1,984,488			
10	Retention of Available Cash Balance (Estimate 06/30/16) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)										
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)					502,895					



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 6

Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council

FROM: Craig Carter, Chief of Police

SUBJECT: 9-1-1 Emergency Telephone System Replacement

RECOMMENDATION:

It is requested that the City Council accept \$383,452.20 from the California Office of Emergency Services (CalOES) to replace the Escondido Police and Fire 9-1-1 Emergency Phone System; authorize the Chief of Police or his designee to execute program documents on behalf of the City; and approve budget adjustments needed to spend program funds.

FISCAL ANALYSIS:

This action will have no impact on the General Fund Budget. Funds will be provided, from the State of California 9-1-1 Emergency Communications Branch, directly to the State approved vendor, AT&T.

PREVIOUS ACTION:

On September 23, 2009, City Council accepted \$350,803.98 in funds from the State of California 9-1-1 Emergency Communications Office for the replacement of the Escondido Police and Fire 9-1-1 Emergency Phone System.

BACKGROUND:

The CalOES, 9-1-1 Emergency Communications Branch, allocated \$383,452.20 to replace the Escondido Police and Fire 9-1-1 Emergency Phone System. The 9-1-1 Emergency Communications Branch recommends that 9-1-1 emergency telephone systems are replaced or upgraded every five years.

Escondido's emergency 9-1-1 phone system was last upgraded in 2009 and was put into service in May of 2010. Currently, the State Master Purchase Agreement only allows for the replacement of a complete turnkey 9-1-1 telephone system; and therefore, Escondido's current system cannot be upgraded, and must be replaced.

After reviewing several systems, Escondido dispatch personnel have recommended AT&T's VESTA 9-1-1 telephone system. This system features browser-based analytics, and a netclock system that

would provide highly accurate and reliable GPS master clock technology. The proposed system would support next generation technology enhancements, such as 9-1-1 calls from non-traditional sources, which include voice-over-IP, telematics providers, text, and multimedia messaging. Additionally, two telephone workstations would include docked laptops to allow for continuity of operations at the back-up site for disaster recovery. This would allow the communications center to continue the essential aspect of receiving telephone calls, in the event the center had to be evacuated.

The California 9-1-1 Emergency Communications Branch reimburses agencies for equipment and expenses associated with replacing the telephone equipment necessary for the delivery and answering of 9-1-1 calls in the State of California. Additionally, the state also reimburses for the maintenance expenses required to keep the equipment functioning properly.

The proposed vendor, AT&T, is an approved vendor for the State of California Department of General Services Multiple Award Schedules (CMAS) Master Purchasing Agreement No. 5-12-58-01. Public Contract Code (PCC) Sections 10290 et Seq. and 12101.5, include approval for local government agencies to use California Multiple Awards Schedules (CMAS) for acquisition of information technology and non-information technology products and services. PCC Sections 10298 and 10299 authorize local government agencies and school districts to use CMAS and other Department of General Services Agreements without competitive bidding. Section 10-90 of the Escondido Municipal Code provides that, "the purchasing officers may make purchase of supplies and equipment with cooperative purchasing programs conducted by the state, county or any public or municipal agency when such agency has processed these cooperative purchases in a competitive manner."

The citizens of Escondido will continue to receive exceptional 9-1-1 service with City Council's acceptance of Escondido's \$383,452.20 allocation to replace the Escondido Police and Fire 9-1-1 Emergency Phone System, and approval to utilize the State's Master Purchasing Agreement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Craig Carter', written over the text 'Respectfully submitted,'.

Craig Carter
Chief of Police



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 7
Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council
FROM: Michael Lowry, Fire Chief
SUBJECT: Fire/Fire Emergency Management Department Reorganization, Position Reclassification, and Budget Adjustment.

RECOMMENDATION:

It is requested that the City Council approve a proposed reorganization of the Fire/Fire Emergency Management divisions of the Fire Department.

FISCAL ANALYSIS:

The proposed reorganization's fiscal impact on the General Fund is offset by personnel savings from the Fire Marshal position's reclassification, the termination of the EMS contractual agreement with the City of San Marcos, and an increase in permit revenue generated through the Fire Prevention Bureau. The reorganization will result in a net increase of 0.5 full-time equivalent positions. The cost of these position adjustments is \$17,435 for the remaining six months of the fiscal year. From FY 2013 to FY 2015, permit revenue has increased by \$23,745 (+41%) and the City is on track for permit revenue to increase another \$16,425 (+20%) over FY 2015.

The Fire Department has worked extensively with Finance to calculate the existing positions costs with the proposed positions costs in order to confirm that this reorganization and reclassification will have a revenue/cost neutral result.

BACKGROUND:

In 2014, the Fire Marshal/Division Chief retired from the City as a Safety employee. Staff decided to fill the position with a Non-Safety Fire Marshal Management employee. This change creates efficiencies and cost savings in the Fire Prevention Bureau. Also, in 2014, the City of San Marcos changed employee schedules and duties which had a negative impact on the Cooperative EMS Program between San Marcos and Escondido. This change with San Marcos staffing resulted in a new EMS Cooperative Agreement which eliminated the sharing of an EMS Chief and EMS Clerk—only the cost of an EMS Coordinator position was shared. The management duties previously coordinated through the shared positions were absorbed by other Escondido Fire Department staff.

As the new EMS Cooperative agreement was implemented, it was apparent that the program no longer met the needs of the City; therefore, a plan was developed to terminate the Cooperative EMS Program with San Marcos. To effectively address the City's EMS needs and to shift duties, staff recommends transitioning the three-quarter EMS Clerk position to a full-time Program Coordinator position. Also, in the past, the City relied on two part-time positions (retired annuitants) to manage duties relating to emergency-disaster preparedness, Community Emergency Response Team (CERT) duties. Staff recommends eliminating the two part-time positions and creating an Emergency-Disaster Preparedness Manager. Finally, with the increase in building plans and permits, staff recommends converting a half-time Department Specialist position to a three-quarter time benefitted Department Aide to support the Fire Prevention Bureau.

SUMMARY:

Retirements and the dissolution of the Cooperative EMS Program have resulted in restructuring the Fire Department. Because of this, the Fire Department has continued to evaluate and develop restructuring plans in order to gain efficiencies. Direction was provided by the City Manager to maintain a balance budget without using General Reserves. This plan presented accomplishes the needs of the department within the direction given.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Lowry", written in a cursive style.

Michael Lowry
Fire Chief



**CITY OF ESCONDIDO
BUDGET ADJUSTMENT REQUEST**

Date of Request: 1/13/16
 Department: Fire
 Division: _____
 Project/Budget Manager: Michael Lowry x5401
 Name Extension
 Council Date (if applicable): 1/13/16
 (attach copy of staff report)

For Finance Use Only	
Log #	<u>BA 01-03</u>
Fiscal Year	<u>2016</u>
_____	Budget Balances
_____	General Fund Accts
_____	Revenue
_____	Interfund Transfers
_____	Fund Balance

Project/Account Description	Account Number	Amount of Increase	Amount of Decrease
Regular Full-time	5001-001-600	9,295	
Regular Full-time	5001-001-601	40,500	
Regular Part-time	5003-001-600		2,655
Temp. Part-time	5004-001-600		6,980
Temp. Part-time	5004-001-601		19,200
Other Employee Overhead	5025-001-600	535	
Other Employee Overhead	5025-001-601	945	
PERS	5026-001-600		3,650
PERS	5026-001-601	11,670	
Medical	5027-001-600	7,790	
Medical	5027-001-601	7,790	
Workers' Comp.	5028-001-600		1,400
Workers' Comp.	5028-001-601		430
Flex Benefits	5030-001-600	865	
Flex Benefits	5030-001-601	2,220	
Professional Services	5131-001-600		29,860
Fire Code Permits	4050-001	17,435	

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 8
Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council

FROM: Jay Petrek, Director of Community Development

Tim Draper, Building Official

SUBJECT: Building Division Budget Adjustment

RECOMMENDATION:

It is requested that the City Council 1) approve a Building Division budget adjustment to increase the cost-recovery Professional Services budget to fund plan review services from EsGil Corporation (EsGil); and 2) receive information about a possible restatement of a vacated fourth building inspector position. Staff will return to the City Council at a future meeting for possible action regarding the building inspector position with potential funding options.

FISCAL ANALYSIS:

An increase of \$50,000 is requested for Professional Services provided by EsGil for plan review. This is a cost recovery service that is funded by applicants and will have no impact on the General Fund.

BACKGROUND:

Escondido has contracted with EsGil Services for many years to conduct plan check services involving plans requiring an engineer's review and for complex projects. Building plans not reviewed by EsGil are plan checked by the City's Deputy Building Official who also provides in-house building expertise to the public. The Building Division budgeted \$65,000 for EsGil's service in FY 2015-2016. Because the Deputy Building Official's responsibilities have been diverted to conduct building inspections, EsGil's plan check services have been increased and the budget is nearly depleted. EsGil's fees are reimbursed to Escondido based on applicants' plan reviews on a cost-recovery basis.

BUILDING INSPECTOR DISCUSSION:

The Building Division was staffed with four (4) building inspector positions, in addition to a plans examiner position, prior to 2009. The City's fourth building inspector and the plans examiner were eliminated from the Building Division budget in response to the last economic downturn. During the past year, Escondido experienced a tremendous increase in permit activity, issuing over 3,600 building permits in 2015, which is the highest amount on record dating back to the year 2000. This equates to over 14 building permits issued every working day.

Concurrently, the Planning Division is experiencing an increase in development applications, which will further impact the Building Division inspection services after those projects receive their entitlements. While building permit issuance has dramatically increased, the total valuation for those issued permits has not increased as significantly because a high percentage involve solar installations, tenant improvements and small construction projects.

Every building permit issued requires an inspection, and over 60 percent of all building permits require multiple inspections based on failures to meet minimum code requirements. Building inspectors can each visit 8 to 14 projects per day based on the complexity and location of the inspection. Building inspection requests are currently averaging 40 to 45 per day; however, recently over 70 building inspection requests were received in a single day. The Building Division's policy is to conduct building inspections on the same day, or the day following an applicant's request for inspection. It is now common to delay inspections beyond the requested day of inspection resulting in upset homeowners and developers who are hindered in completing their projects.

Staff has made every effort to prioritize inspections to minimize delays and is evaluating opportunities to contract an extension of staff through a private inspection service as a temporary solution. Escondido's Deputy Building Official (as well as the Building Official) are frequently sent into the field to conduct inspections. However, the absence of these building experts in the office impacts in-house plan checking and customer service for walk-in clients needing assistance at City Hall. In addition, support staff now spends significant time rescheduling inspections and maintaining positive relations with the public who are upset over delays in completing their projects.

DISCUSSION / RECOMMENDATION:

Increased building permit activity has necessitated assigning the Deputy Building Official and Building Official into the field to conduct inspections causing more plans being directed to EsGil for plan checking nearly exhausting the Building Division's budget for this service. A budget adjustment of \$50,000 would allow the continued use of EsGil's contracted services and maintain the timely review of plan checks without impacting the General Fund.

After evaluating funding options, staff will return to the City Council in the future for further discussion and action on the Building Inspector position that is critically needed at this time.

Respectfully Submitted,



Jay Petrek
Director of Community Development



Tim Draper
Building Official

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9
Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council
FROM: Christopher W. McKinney, Director of Utilities
SUBJECT: Notice of Completion: Emergency Sewer Outfall Repair Work

RECOMMENDATION:

The Utilities Department requests that the City Council adopt Resolution No. 2016-04 authorizing the Director of Utilities to file a Notice of Completion for the Emergency Sewer Outfall Repair Work.

FISCAL ANALYSIS:

The total cost of the emergency repair work on the Sewer Outfall was \$318,793. The City Council approved emergency action complete the project for an amount not to exceed \$350,000. The work was completed for \$31,207 less than the "not to exceed" amount.

PREVIOUS ACTION:

On July 8, 2015, the City Council adopted Resolution No. 2015-128 authorizing the award of a Public Improvement Agreement with TC Construction Company, Inc. for an amount not to exceed \$350,000 to immediately begin the process to repair the Outfall. On August 5, August 19, September 2, and September 23 the City Council adopted Resolution Numbers 2015-137, 2015-148, 2015-153 and 2015-167 respectively, approving the continuation of the emergency action to repair the Sewer Outfall.

BACKGROUND:

The existing Outfall is a 14-mile long cement mortar coated steel pipeline that carries treated wastewater from the Hale Avenue Resource Recovery Facility (HARRF) to the Pacific Ocean. The Outfall was constructed in 1972.

During previous inspections, staff observed that the wire mesh and rock protecting a section of the Outfall crossing Escondido Creek had been dislodged by storm water flow and washed away, leaving a section of the Outfall exposed and susceptible to failure - potentially resulting in discharge of millions of gallons of secondary treated wastewater into Escondido Creek. Such an event would violate the terms of the existing

January 13, 2016

Notice of Completion: Emergency Sewer Outfall Repair Work

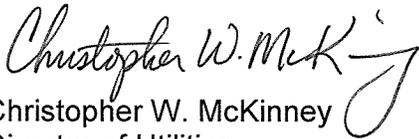
Page 2

discharge permits and expose the City to significant liability. The location of the exposed section of Outfall was in Escondido Creek adjacent to the intersection of Harmony Grove Road and Wilgen Drive.

TC Construction Company, Inc. successfully replaced the wire mesh and rock, thus stabilizing the slope banks to prevent Outfall failure. The work also included filling the voids underneath the Outfall, placing rock-gabions along both sides of the Outfall, and covering the entire section of Outfall with concrete from the east-to-west slope banks.

City staff worked under an existing contract with HELIX Environmental Planning, Inc. to insure compliance with environmental regulations and proper notification of natural resource agencies throughout the project.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christopher W. McKinney". The signature is written in black ink and is positioned to the left of the printed name and title.

Christopher W. McKinney
Director of Utilities

RESOLUTION NO. 2016-04

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE DIRECTOR OF UTILITIES
TO FILE A NOTICE OF COMPLETION FOR
THE EMERGENCY SEWER OUTFALL REPAIR
WORK

WHEREAS, the City Council of the City of Escondido authorized the award of a Public Improvement Agreement with TC Construction on July 8, 2015, in the amount of \$350,000; and

WHEREAS, the City of Escondido Staff and the Director of Utilities deems the filing of the Notice of Completion to be valid and recommends approval; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve the filing of the Notice of Completion;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the City Council accepts the recommendation of the Director of Utilities.
3. That the City Council hereby approves the request to file Notice of Completion for the Emergency Sewer Outfall Repair Work.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 10

Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Director of Public Works/City Engineer
Owen Tunnell, Principal Engineer

SUBJECT: Final Map, Escondido Tract 894, located at 1026 Lehner Avenue

RECOMMENDATION:

It is requested that the City Council approve the Final Map for Tract 894, an 11 Lot Residential Subdivision located at 1026 Lehner Avenue.

FISCAL ANALYSIS:

The cost for review of the Final Map is paid by the developer in accordance with the adopted fee schedule.

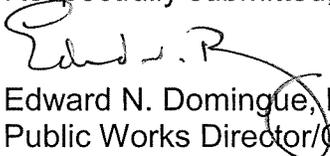
PREVIOUS ACTION:

This project was approved by the City Council on August 16, 2006 as Resolution 2006-156, together with a Development Agreement approved as Ordinance 2006-27. This Development Agreement expired and a new Development Agreement was approved by the City Council on December 04, 2013 as Ordinance 2013-14(R).

BACKGROUND:

Staff has examined this Final Map and found it to be mathematically correct and substantially the same as it appeared on the approved Tentative Subdivision Map and subject to the conditions of approval and the terms of the Development Agreement. This Final Map conforms to the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval. The Planning Department has reviewed and approved the Final Map.

Respectfully submitted,


Edward N. Domingue, P.E.
Public Works Director/City Engineer


Owen Tunnell
Principal Engineer

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 11
Date: **January 13, 2016**

TO: Honorable Mayor and Members of the City Council
FROM: Edward N. Domingue, Director of Public Works/City Engineer
Owen Tunnell, Principal Engineer
SUBJECT: Final Map, Escondido Tract SUB13-0003, located at 836 Stanley Avenue

RECOMMENDATION:

It is requested that the City Council approve the Final Map for Tract SUB13-0003, a 16 Lot Residential Subdivision located at 836 Stanley Avenue.

FISCAL ANALYSIS:

The cost for review of the Final Map is paid by the developer in accordance with the adopted fee schedule.

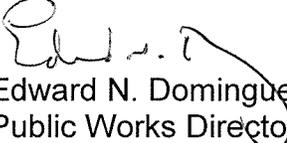
PREVIOUS ACTION:

This project was recommended for approval by the Planning Commission on May 27, 2014 as Resolution 6013 and approved by the City Council on June 18, 2014 as Resolution 2014-58, together with a Development Agreement approved as Ordinance 2014-12.

BACKGROUND:

Staff has examined this Final Map and found it to be mathematically correct and substantially the same as it appeared on the approved Tentative Subdivision Map and subject to the conditions of approval and the terms of the Development Agreement. This Final Map conforms to the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval. The Planning Department has reviewed and approved the Final Map.

Respectfully submitted,


Edward N. Domingue, P.E.
Public Works Director/City Engineer


Owen Tunnell
Principal Engineer

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 12
Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council
FROM: Edward N. Domingue, Public Works Director/City Engineer
SUBJECT: SANDAG Transnet Active Transportation Program (ATP) and Smart Growth Incentive Program (SGIP) Budget Adjustment

RECOMMENDATION:

It is requested that the City Council approve a budget adjustment to expend grant funds awarded by the San Diego Association of Governments (SANDAG) for the El Norte Signalized Pedestrian Crossing and Escondido Transit Center Active Transportation Connections projects.

FISCAL ANALYSIS:

For the El Norte Signalized Pedestrian Crossing project, matching funds in the amount of \$340,000 are included in previously planned and budgeted components of the El Norte Bridge Widening project. For the Transit Center Active Transportation Connections project, there is no required local fund match for this grant. Full project costs are anticipated to be covered by the grant.

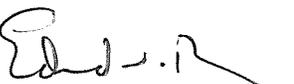
PREVIOUS ACTION:

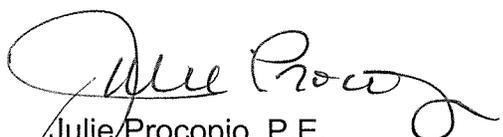
The City Council authorized staff to submit and execute grant applications on March 11, 2015.

BACKGROUND:

On July 24, 2015, the SANDAG Board of Directors approved programming of funding for the Active Transportation Program (ATP) and Smart Growth Incentive Program (SGIP) Grants. The City of Escondido was selected for an ATP Grant in the amount of \$335,000 to fund a signalized crossing of El Norte Parkway at the Escondido Creek Trail. The City of Escondido was also selected for a SGIP Grant in the amount of \$1,270,000 to fund a pedestrian bridge spanning the creek and adjacent to Valley Parkway, as well as a box culvert expansion and bike lane on Valley Parkway at the Transit Center. Staff requests approval of a budget adjustment to complete the projects.

Respectfully submitted,


Edward N. Domingue, P.E.
Public Works Director/City Engineer


Julie Procopio, P.E.
Assistant Public Works Director/Engineering

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 13

Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Director of Public Work
Abraham Bandegan, Associate Engineer

SUBJECT: Award of Consulting Agreement for Design of Escondido Creek Missing Link Project to KOA Corporation

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2016-06, authorizing the Mayor and the City Clerk to execute a Consulting Agreement for \$176,973 with KOA Corporation for the design of the Escondido Creek Missing Link Project.

FISCAL ANALYSIS:

The costs of design and construction are fully funded by a San Diego Association of Governments ("SANDAG") Active Transportation Grant for \$1,092,000 that has already been awarded to the City. The attached Consulting Agreement is for the design portion of the project.

PREVIOUS ACTION:

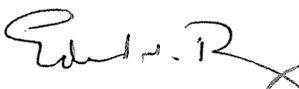
On August 5, 2015, the City Council approved Resolution 2015-136, authorizing the Public Works Director/City Engineer to execute on behalf of the City of Escondido ("City"), an agreement between SANDAG and the City that awarded the City a grant of \$1,092,000 in exchange for the design and construction of the Escondido Creek Bikeway Missing Link Project.

BACKGROUND:

On May 7, 2014, the City applied for an Active Transportation Program ("ATP") grant from the California Transportation Commission ("CTC"). On December 10, 2014, the City was awarded an ATP grant in the amount of \$1,092,000. SANDAG allowed the City to provide SANDAG with the grant funds in exchange for TransNet funds which allows the grant process to be completed with SANDAG, increasing the efficiency and turnaround of the process. On August, 5, 2015, the City entered into an agreement with SANDAG to receive the \$1,092,000 funding for design and construction of the Escondido Creek Bikeway Missing Link Project.

The Consulting Agreement with KOA Corporation covers the design services needed for the Escondido Creek Missing Link Project. The project involves construction of a missing section of the Escondido Creek Class I bikeway (bike path) between the Escondido Transit Center, Escondido's historic Downtown, and Grape Day Park. Design services are to include preparation of plans, specifications and estimates.

Respectfully submitted,



Edward N. Domingue, P.E.
Public Works Director/City Engineer



Abraham Bandegan, TE, PTP
Associate Engineer

RESOLUTION NO. 2016-06

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR AND THE CITY
CLERK TO EXECUTE A CONSULTING
AGREEMENT WITH KOA CORPORATION
FOR THE DESIGN OF THE ESCONDIDO
CREEK MISSING LINK PROJECT

WHEREAS, on May 7, 2014, the Public Works Director/City Engineer was authorized by City Council to apply for an Active Transportation Program (“ATP”) Grant with California Transportation Commission (“CTC”); and

WHEREAS, CTC awarded the City of Escondido an ATP Grant in the amount of \$1,092,000; and

WHEREAS, on August 5, 2015, the Public Works Director/City Engineer was authorized by City Council to execute on behalf of the City of Escondido an agreement between the San Diego Association of Governments (“SANDAG”) and the City of Escondido, which awarded the City the grant of \$1,092,000 in exchange for the design and construction of the Escondido Creek Bikeway Missing Link Project; and

WHEREAS, the Public Works Director/ City Engineer recommends the approval and execution of the Consulting Agreement with KOA Corporation in the amount of \$176,973 for the design of the City of Escondido Creek Missing Link Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.

2. That the Mayor and the City Clerk are hereby authorized and directed to enter into and execute, on behalf of the City of Escondido, a Consulting Agreement (“Agreement”) with KOA Corporation in the amount of \$176,973 for the design of the City of Escondido Creek Missing Link Project. A copy of the Agreement is attached as Exhibit “1” and is incorporated by this reference.



CITY OF ESCONDIDO
CONSULTING AGREEMENT FOR DESIGN PROFESSIONALS

(ONLY for licensed architects, landscape architects, professional engineers, and professional land surveyors who are performing design services for the City)

This Agreement is made this 12th day of January, 2016.

Between: CITY OF ESCONDIDO
a Municipal Corporation
201 N. Broadway
Escondido, California 92025
Attn: Julie Procopio
760-8394001
("CITY")

And: KOA Corporation
2141 W Orangewood Ave, Suite A
Orange, CA 92868
Attn: Min Zhou
714-573-0317
("CONSULTANT")

Witness that whereas:

- A. It has been determined to be in the CITY's best interest to retain the professional services of a consultant to design the Escondido Creek Bikeway Missing Link Project; and
- B. The CONSULTANT is considered competent to perform the necessary professional services for CITY;

NOW, THEREFORE, it is mutually agreed by and between CITY and CONSULTANT as follows:

- 1. Services. The CONSULTANT will furnish all of the services as described in "Attachment A," which is attached and incorporated by this reference. Each task shall be completed by the deadlines established in the schedule in "Attachment A."
- 2. Compensation. The CITY will pay the CONSULTANT in accordance with the conditions specified in "Attachment A," not to exceed \$176,973. Any breach of this Agreement will relieve CITY from the obligation to pay CONSULTANT, if CONSULTANT has not corrected the breach after CITY provides notice and a reasonable time to correct it.
- 3. Scope of Compensation. The CONSULTANT will be compensated for performance of tasks specified in "Attachment A" and on a time and material basis. No compensation will be provided for any other tasks without specific prior written consent from the CITY.

- 4. Duties. CONSULTANT will be responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports and other services furnished by the CONSULTANT under this Agreement, except that the CONSULTANT will not be responsible for the accuracy of information supplied by the CITY.

- 5. Personnel. The performance of services under this Agreement by certain professionals is significant to the CITY. CONSULTANT will assign the persons listed on "Attachment B," which is attached and incorporated by this reference, to perform the Services described in Paragraph 1, and will not add or remove persons from the list without the prior written consent of the CITY. CONSULTANT will not subcontract any tasks under this Agreement without obtaining the advance written consent of the CITY.

- 6. Termination. Either CONSULTANT or the CITY may terminate this Agreement with thirty (30) days advance written notice.

- 7. City Property. All original documents, drawings, electronic media, and other material prepared by CONSULTANT under this Agreement immediately becomes the exclusive property of the CITY, and may not be used by CONSULTANT for any other purpose without prior written consent of the CITY.

- 8. Insurance.
 - a. The CONSULTANT shall secure and maintain at its own costs, for all operations, the following insurance coverage, unless reduced by the City Attorney:
 - (1) General liability insurance. Occurrence basis with minimum limits of \$1,000,000 each occurrence, \$2,000,000 General Aggregate, and \$1,000,000 Products/Completed Operations Aggregate; and
 - (2) Automobile liability insurance of \$1,000,000 combined single-limit per accident for bodily injury and property damage, unless waived as provided in 8(b) below; and
 - (3) Workers' compensation and employer's liability insurance as required by the California Labor Code, as amended, or certificate of sole proprietorship; and
 - (4) Errors and Omissions professional liability insurance with minimum coverage of \$1,000,000.

 - b. It is the parties' understanding that the use of a motor vehicle is not a primary subject of this Agreement. CONSULTANT acknowledges that operating a motor vehicle is outside the scope of this Agreement and occurs only at the convenience of the CONSULTANT. A waiver of automobile liability insurance is only effective if both sets of initials appear below, otherwise such insurance is required.

Acknowledged by CONSULTANT _____

Waiver appropriate by CITY _____

 - c. Each insurance policy required above must be acceptable to the City Attorney:
 - (1) Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage must be provided by an A.M. Best's A- rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.
 - (2) All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.

- (3) Both the General Liability and the Automotive Liability policies must name the CITY specifically as an additional insured under the policy on a separate endorsement page. The endorsement must be ISO Form CG2010 11/85 edition or its equivalent for General Liability endorsements and CA 20-01 for Automobile Liability endorsements.
 - (4) The General Liability policy must include coverage for bodily injury and property damage arising from CONSULTANT's work including its ongoing operations and products-completed operations hazard.
 - (5) The General Liability policy must be primary and noncontributory and any insurance maintained by CITY is excess.
 - d. In executing this Agreement, CONSULTANT agrees to have completed insurance documents on file with the CITY within fourteen (14) days after the date of execution. Failure to comply with insurance requirements under this Agreement will be a material breach of this Agreement, resulting in immediate termination at CITY's option.
9. Indemnification. CONSULTANT (which in this paragraph 9 includes its agents, employees and subcontractors, if any) agrees to indemnify, defend, and hold harmless the CITY and San Diego Association of Governments (SANDAG) from all claims, lawsuits, damages, judgments, loss, liability, or expenses, including attorneys' fees, for any of the following:
 - a. Any claim of liability arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of CONSULTANT in the performance of this Agreement, excepting only those claims resulting from the sole negligence, active negligence or intentional misconduct of CITY, its employees, officials, or agents, not including CONSULTANT;
 - b. Any personal injuries, property damage or death that CONSULTANT may sustain while using CITY-controlled property or equipment, while participating in any activity sponsored by the CITY, or from any dangerous condition of property; or
 - c. Any injury or death which results or increases by any action taken to medically treat CONSULTANT.
10. Anti-Assignment Clause. The CONSULTANT may not assign, delegate or transfer any interest or duty under this Agreement without advance written approval of the CITY, and any attempt to do so will immediately render this entire Agreement null and void.
11. Costs and Attorney's Fees. In the event that legal action is required to enforce the terms and conditions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs.
12. Independent Contractor. CONSULTANT is an independent contractor and no agency or employment relationship, either express or implied, is created by the execution of this Agreement.
13. Merger Clause. This Agreement and its Attachments, if any, are the entire understanding of the parties, and there are no other terms or conditions, written or oral, controlling this matter. In the event of any conflict between the provisions of this Agreement and any of its Attachments, the provisions of this Agreement must prevail.
14. Anti-Waiver Clause. None of the provisions in this Agreement will be waived by CITY because of previous failure to insist upon strict performance, nor will any provision be waived by CITY because any other provision has been waived, in whole or in part.

15. Severability. The invalidity in whole or in part of any provision of this Agreement will not void or affect the validity of any other provisions of this Agreement.
16. Choice of Law. This Agreement is governed by the laws of the State of California. Venue for all actions arising from this Agreement must be exclusively in the state or federal courts located in San Diego County, California.
17. Multiple Copies of Agreement/Counterparts. Multiple copies and/or counterparts of this Agreement may be executed, including duplication by photocopy or by computerized scanning device. Each duplicate will be deemed an original with the same effect as if all the signatures were on the same instrument. However, the parties agree that the Agreement on file in the office of the Escondido City Clerk is the copy of the Agreement that shall take precedence should any differences exist among copies or counterparts of the document.
18. Provisions Cumulative. The foregoing provisions are cumulative and in addition to and not in limitation of any other rights or remedies available to the CITY.
19. Notices to Parties. Any statements, communications or notices to be provided pursuant to this Agreement must be sent to the attention of the persons indicated below. Each party agrees to promptly send notice of any changes of this information to the other party, at the address first above written.
20. Business License. The CONSULTANT is required to obtain a City of Escondido Business License prior to execution of this Agreement.
21. Compliance with Applicable Laws, Permits and Licenses. CONSULTANT shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, and rules in effect during the term of this Agreement. CONSULTANT shall obtain any and all licenses, permits, and authorizations necessary to perform services set forth in this Agreement. Neither CITY, nor any elected nor appointed boards, officers, officials, employees, or agents of CITY shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.
22. Immigration Reform and Control Act of 1986. CONSULTANT shall keep itself informed of and comply with the Immigration Reform and Control Act of 1986. CONSULTANT affirms that as an employer in the State of California, all new employees must produce proof of eligibility to work in the United States within the first three days of employment and that only employees legally eligible to work in the United States will be employed on this public project. CONSULTANT agrees to comply with such provisions before commencing and continuously throughout the performance of this Agreement.

IN WITNESS WHEREOF, the parties below are authorized to act on behalf of their organizations, and have executed this Agreement as of the date set forth below.

CITY OF ESCONDIDO

Date: _____

Sam Abed
Mayor

Date: _____

Diane Halverson
City Clerk

Date: _____

(Contractor signature)

Title

(The above signature must be notarized)

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

THE CITY OF ESCONDIDO DOES NOT DISCRIMINATE AGAINST QUALIFIED PERSONS WITH DISABILITIES.

Proposed Scope of Services for the Design of the Escondido Creel Bikeway Missing Link*Task 1 – Project Kickoff*

The successful completion of the design for the Escondido Creek Bikeway Missing Link Project must begin with a clear understanding of the City's expectations and establishment of effective communication protocol. KOA proposes to hold a kickoff meeting with the City staff at the outset of the project. We would present a draft of our work plan, which would include the scope, deliverables, staffing, budget, schedule, public outreach plan, and quality control plan. As part of the discussion, we would identify what data is available from the City, such as as-built plans, previous studies, mapping, utility locates, etc. Based on the meeting, KOA would refine our work plan.

Task 1 Deliverables:

- *Draft Work Plan*
- *Agenda for Kickoff Meeting*
- *Minutes of Kickoff Meeting*
- *Final Work Plan*

Task 2 – Project Management

KOA proposes to hold weekly conferences with City staff to resolve outstanding issues in a timely fashion, report progress on action items, and demonstrate accountability in maintaining the proposed schedule. Our project manager lives in Escondido and can meet weekly with City staff easily and efficiently. We will prepare meeting agendas and minutes to document action items, project issues, and decisions. We will submit schedule updates and progress reports monthly along with our invoices.

Task 2 Deliverables

- *Agenda for weekly conferences*
- *Minutes of weekly conferences*
- *Monthly invoices with progress reports and schedule updates*

Task 3 – Survey

KOA will sub-consult survey services to Aguirre, Inc. We have worked with them on numerous projects, including the 10 miles of Uptown San Diego Bikeway Design PS&E we are currently preparing for SANDAG. Aguirre, Inc. will provide aerial mapping supplemented by ground shots at locations where vertical construction of curbs, medians, bridges, ramps, and pavement are anticipated. We propose to depict utilities where they are evident (such as the water mains and gas lines along each side of North Broadway where they cross Escondido Creek), and to obtain locations from mapping where the utilities are not evident. The survey information will be used as the basis for preparing the 30%, 60%, 90% and final plans. Because of the level of detail required for pedestrian ramps, cycle tracks, bike boulevard features, and vehicle turning templates, we propose to prepare legible plan and profile sheets at 1"=20' scale full size (1"=40' scale half size).

Task 3 Deliverables

- *Topographic and elevation survey*

Task 4 – Conceptual Alternatives

We propose to hold a workshop with City staff and NCTD to explore options for addressing unresolved design issues and to reach consensus in resolving constraints and challenges to the bikeway construction. Once we have identified the preferred alternatives, KOA will prepare conceptual layouts depicting what the proposed bikeway will look like. The graphic exhibits will include plan layouts and typical sections. KOA will also provide input to the City on recommended changes to signal operations for incorporation into the City's signal timing project. KOA also will collect baseline bicycle, pedestrian and auto data to document the pre-improvement conditions for SANDAG evaluation of the project effectiveness.

Task 4 Deliverables:

- *Graphic layouts of preferred alternative.*
- *Conceptual plans and sections of preferred alternative*
- *Bicycle/pedestrian/auto baseline data*

Task 5 – Geotechnical Investigations

KOA will sub-consult geotechnical investigation services to Ninyo and Moore to conduct soil boring and testing as a basis for the design of the bridge foundations. Soil testing will be based on the assumption that that deep footings will not be used for the bridge, but rather that the bridge across the creek will be supported on shallow spread footings or structurally tied to the existing channel walls. To reduce the costs of the geotechnical investigation, we have assumed that the City will cover the cost of obtaining the boring permits, and that the borings can be conducted on City right of way outside the roadway so that no special traffic control will be required. Two borings will be conducted (one at each abutment location) to depths of 15 feet and 30 feet, or to refusal. Soil samples will be collected at selected intervals for laboratory testing. The laboratory test results will be used to evaluate appropriate design parameters, and the results will be documented in a geotechnical report.

Task 5 – Deliverables:

- *Geotechnical report*

Task 6 – 30% Design

Based on the direction of City staff from previous tasks, KOA will prepare 30% design plans. Plans will include:

- *Typical sections*

- Plan and profile sheets
- Bridge layout sheets
- Striping plans
- Traffic signal plans

Kleinfelder will assist KOA Corporation with the evaluation and design of the proposed bridge across Escondido Creek. The capacity and stability of the existing channel walls must be considered as the new bikeway bridge has the potential to add new surcharge loads to the walls. Temporary shoring may be required adjacent to the existing vehicular bridge, and excavations may be limited depending on the configuration of the existing bridge abutments. Kleinfelder will work with the team geotechnical engineer to identify the best structural solution to support a new bikeway bridge across Escondido Creek, considering the potential for liquefaction of the soils.

Furthermore, existing utilities may need to be relocated onto the new bridge. The bridge design will need to account for these additional loads. Kleinfelder will consult informally with several bridge manufacturers to estimate bridge superstructure geometry, weights, and delivery costs. They will not design the superstructure; the bridge supplier (selected by the Contractor) will be responsible for designing the bridge to carry the live loads and utility loads specified on our plans.

At the 30% stage, Kleinfelder will document the proposed bridge concept in a Type Selection Memo. Along with preliminary plans and cost estimate, this memo describes the bridge features to be designed for the 60% stage. At each stage of design, all deliverables will pass through Kleinfelder's rigorous quality control procedures. A pre-assigned Quality Reviewer and an Independent Technical Reviewer will evaluate and document each project deliverable for accuracy and compliance with contract requirements.

KOA will prepare an opinion of probable construction cost based on the 30% design. We will meet with City staff in the field to conduct a field check of the design for constructability. KOA will record City comments, and will prepare a formal response to the comments for resolution prior to proceeding to 60% design. KOA will at this time prepare a letter to the City planning staff requesting the finding of exemption from CEQA.

Task 6 Deliverables:

- *Bridge Type selection Memo*
- *30% design plans*
- *Summary of field Check comments and resolution*

Task 7 – Public Outreach Opportunity1

Once the 30% design has been completed with the concurrence of the City staff, we will be in a position and have the graphic exhibits prepared to present a cohesive depiction of the entire project to stakeholders and the general public. We propose to conduct this meeting in an open house venue, with

KOA staff present to answer questions and receive comments. Participants will have the opportunity to post their comments on the exhibits via Post Its.

We will also provide access to a web-based site where the public can post comments and photos to provide additional input to the project. We call this our eAudit tool.

Following the open house outreach event, KOA will debrief with City staff on the comments received to determine what changes should be made to the concepts, before proceeding to 60% design.

Task 7 Deliverables:

- *Graphic Exhibits for open house meeting*
- *eAudit website for web-based comments*

Task 8 – 60% Design

At the 60% design level, KOA will provide 60% level of completion on 100% of the sheets. At this stage KOA will prepare any modification to existing signal timings and will evaluate the impact on intersection level of service. In addition to those sheets identified above, KOA will prepare:

- Constriction staging sheets
- Erosion control sheets
- Cross sections
- Miscellaneous details
- General notes

At the 60% stage, Kleinfelder will deliver a full set of bridge substructure (abutment and foundation) plans, updated cost estimate, and list of probable bridge specifications. We will prepare a list of sections to be included in the specifications. We will prepare an opinion of probable construction cost based on the 60% plans. KOA will submit the 60% design plans to the City and NCTD for review and comment. We will meet with the city staff to review the plans and will respond to City comments.

Task 8 - Deliverables:

- *60% design plans*
- *Summary of 60% design review meeting comments and resolution*

Task 9 – Public Outreach Opportunity 2

Following approval of the 60% design by City staff, the details of the project will be sufficiently vetted that there should not be any significant changes in the design between 60% and 90% completion. This is the appropriate time to again bring the project to the stakeholders and general public for comment and questions. KOA will prepare exhibits depicting the proposed bikeway facility. We will provide staff to answer questions and receive comments.

Task 9 Deliverables:

- *Graphic exhibits of recommended improvements*
- *Summary of comments*

Task 10 – 90% Design

Following the second public outreach opportunity, KOA staff will meet with City staff to debrief on the comments and questions, and will concur with staff on any changes to the design. The 90% design submittal will include complete plans, specifications, and estimate. The bridge plans will be checked using an independent set of bridge calculations as part of the 90% delivery package. KOA will meet with City staff to receive any final comments to be incorporated into the 100% plans.

Task 10 Deliverables;

- *90% plans, specifications, and estimate*

Task 11 – City Council Presentation

KOA will prepare exhibits and/or a power point presentation for a presentation to The Escondido City Council, as requested by City staff for project approval.

Task 11 Deliverables:

- *Exhibits and/or power point presentation*

Task 12 – Utility Coordination

KOA will initiate contact with the utility companies of record in the bikeway corridor at several junctures during the project. These will include:

- Following the creation of the base maps to confirm if the utility company has utilities in the project area
- Following completion of 60% design
- Following completion of 90% design

KOA will keep a log of utility contact information and dates when notifications and plans were sent to each company.

Task 12 Deliverables

- *Utility plan sets*
- *Utility log*

Task 13 – Final Design

KOA will prepare final design plans, specifications and estimates for submittal to the City for bidding. All agency and team comments will be resolved and incorporated for the final 100% PS&E package.

Task 13 Deliverables;

- *Final plans, specifications, and estimate*

Task 14 – Bidding Services

KOA will assist the City during the bidding phase by attending a pre-bid information meeting if requested, and responding to requests for information during the bidding phase and preparing bidding addendums if requested.

Task 14 Deliverables:

- *Responses to Requests for information*
- *Bid documents addendums*

Task 15 – Construction Phase Services

If requested, KOA will provide construction phase services which may include:

- Responses to requests for information
- Plan interpretation
- Minor modifications to design
- Preparation of change orders
- Periodic field observations
- Coordination meetings
- Review of shop drawings and catalog cuts
- Preparation of as-built drawings
- Attendance at punch list and final inspections

Task 15 Deliverables:

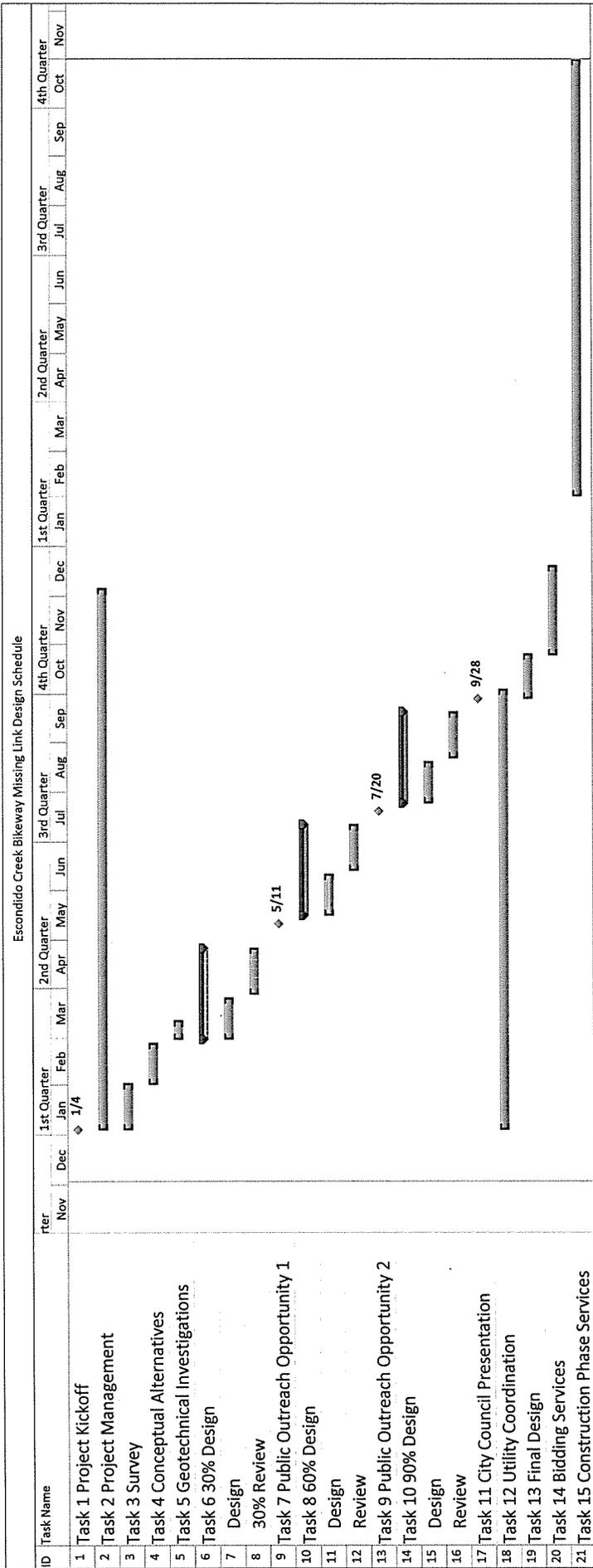
- *As noted above*

**Escondido Creek Bikeway Missing Link
 FEE SCHEDULE (DATED 12/21/15)**

BASE TASK / DELIVERABLE	Principal Min Zhou	Project Manager Charlie Schwinger	Production Manager Don Bloodworth	Bikeway Design Laura Parsons	Traffic Engineer Arnold Torma	Associate Engineer Claude Strayer	Assistant Engineer Steven Wang	Administrative Assistant Christine Adley	TOTAL HOURS	Other Direct Costs	KOA Labor	Kleinfelder	Aguirre & Associates	Ninyo & Moore	TOTAL COSTS BY TASK
Task 1 - Project Kickoff															
Work Plan Meeting	1	1	1				\$75.00	\$80.00	3	\$30	\$650				\$650
		2	2						4	\$30	\$940				\$970
SUBTOTAL	1	3	3						7	\$30	\$1,490				\$1,520
Task 2 - Project Management															
Weekly Conferences	6	6							18		\$2,220				\$2,220
Monthly Reporting	6	6							18		\$2,220				\$2,220
SUBTOTAL	6	6							18		\$2,220				\$2,220
Task 3 - Survey															
Subconsultant															
Field Check Base Map and Plot Utilities									12	\$20	\$1,040		\$14,015		\$14,015
SUBTOTAL									12	\$20	\$1,040		\$14,015		\$15,075
Task 4 - Conceptual Alternatives															
Alternative Layouts	2	2	2	2	1	2	16		25		\$2,830				\$2,830
Workshop	3	3	3			3			9		\$1,590				\$1,590
Graphics Refinement							8		8		\$600				\$600
Baseline Data Collection	5	40	5	2	2	5	40		47	\$1,000	\$4,010				\$5,020
SUBTOTAL	5	40	5	2	3	10	64		89	\$1,000	\$9,030				\$5,020
Task 5 - Geotechnical Investigations															
Subconsultant															
SUBTOTAL															
Task 6 - 30% Design															
Typical Sections			2	2		2	16		22		\$2,180				\$2,180
Plan and Profiles			2	2		8	40		52		\$4,640				\$4,640
Bridge Subconsultant												\$9,748			\$9,748
Striping			2	2		8	20		33		\$3,370				\$3,370
Signals			2	2		12	16		32		\$3,400				\$3,400
Costs			2	2		8	16		26		\$2,500				\$2,500
Review Meeting	4	4	4	4		4	4		12	\$30	\$2,120				\$2,150
Comment Response			2	2		6	6		14		\$1,530				\$1,530
SUBTOTAL	4	16	6	6	3	48	114		191	\$30	\$19,740	\$9,748			\$29,918
Task 7 - Public Outreach Opportunity 1															
Picting Materials and Exhibits	1	1					10		11		\$960				\$960
Meeting	4	4	4			4	4		16	\$30	\$2,420				\$2,450
Summary						2			2		\$220				\$220
SUBTOTAL	5	4	4			6	14		29	\$30	\$3,600				\$3,630
Task 8 - 60% Design															
Construction Staging			2	2		6	12		21		\$2,210				\$2,210
Erosion Control			4	4		6	12		22		\$2,400				\$2,400
Cross Sections			8	8		12	24		44		\$4,800				\$4,800
Bridge Subconsultant												\$24,514			\$24,514
Update Other Sheets			8	8	1	12	16		39		\$4,770				\$4,770
Plot Details and Notes			8	8		8	16		32		\$3,760				\$3,760
Costs			2	2		6	8		16		\$1,680				\$1,680
Review Meeting	4	4	4	4		4	4		12	\$30	\$2,120				\$2,150
Comment Response			2	2		4	4		6		\$860				\$860
SUBTOTAL	4	38	2	2	2	58	88		192	\$30	\$22,600	\$24,514			\$47,144

Escondido Creek Bikeway Missing Link
FEE SCHEDULE (DATED 12/11/15)

BASE TASK / DELIVERABLE	Principal Min Zhou	Project Manager Charlie Schwinger	Production Manager Don Bloodworth	Bikeway Design Laura Parsons	Traffic Engineer Arnold Tormia	Associate Engineer Claude Strayer	Assistant Engineer Steven Wang	Administrative Assistant Christine Adley	TOTAL HOURS	Other Direct Costs	KOA Labor	Kleinfelder	Aguirre & Associates	Ninoy & Moore	TOTAL COSTS BY TASK
BASE TASK / DELIVERABLE															
Hourly Rates (Fully Burdened):	\$230.00	\$210.00	\$210.00	\$170.00	\$230.00	\$110.00	\$75.00	\$80.00							
Task 1 - Project Kickoff															
Work Plan	1	1	1						3		\$650				\$650
Meeting		2	2						4	\$30	\$900				\$870
SUBTOTAL	1	3	3						7	\$30	\$1,490				\$1,520
Task 2 - Project Management															
Weekly Conferences		6													
Monthly Reporting		6													
SUBTOTAL	6	6							12		\$2,220				\$2,220
Task 3 - Survey															
Subconsultant															
Field Check Base Map and Plot Utilities															
SUBTOTAL									12	\$20	\$1,040				\$1,060
Task 4 - Conceptual Alternatives															
Alternative Layouts		2	2	2	1	2	16		25		\$2,830				\$2,830
Workshop		3	3			3			9		\$1,590				\$1,590
Graphic Refinement							8		8		\$600				\$600
Baseline Data Collection		5	40		2	5	40		47	\$1,000	\$4,010				\$5,020
SUBTOTAL	5	5	5	2	3	10	64		89	\$1,000	\$9,030				\$5,020
Task 5 - Geotechnical Investigations															
Subconsultant															
SUBTOTAL															\$15,700
Task 6 - 30% Design															
Typical Sections			2	2		2	16		22		\$2,180				\$2,180
Plan and Profiles			2	2		8	40		52		\$4,640				\$4,640
Bridge Subconsultant												\$9,748			\$9,748
Striping			2	2	1	8	20		33		\$3,370				\$3,370
Signals			2	2	2	12	16		32		\$3,400				\$3,400
Costs			2	2		8	16		26		\$2,500				\$2,500
Review Meeting		4	4			4			12	\$30	\$2,120				\$2,150
Comment Response		2	2			6	6		14		\$1,530				\$1,530
SUBTOTAL	4	16	16	6	3	48	114		191	\$30	\$19,740	\$9,748			\$29,518
Task 7 - Public Outreach Opportunity 1															
Meeting, Materials and Exhibits		1					10		11		\$960				\$960
Meeting		4	4			4	4		16	\$30	\$2,420				\$2,450
Summary						2			2		\$220				\$220
SUBTOTAL	5	4	4	6	14	6	14		29	\$30	\$3,600				\$3,630
Task 8 - 60% Design															
Construction Staging			2		1	6	12		21		\$2,210				\$2,210
Erosion Control			4	4	2	6	12		22		\$2,400				\$2,400
Cross Sections			8			12	24		44		\$4,800				\$4,800
Bridge Subconsultant												\$24,514			\$24,514
Update Other Sheets			8	2	1	12	16		39		\$4,770				\$4,770
Misc Details and Notes			8			8	16		32		\$3,760				\$3,760
Costs			2			6	8		16		\$1,680				\$1,680
Review Meeting		4	4			4	4		12	\$30	\$2,120				\$2,150
Comment Responses		2	2			4	4		6		\$860				\$860
SUBTOTAL	4	4	38	2	2	58	88		192	\$30	\$22,600	\$24,514			\$47,144





ESCONDIDO CREEK BIKEWAY MISSING LINK PROJECT

PROPOSAL FOR THE CITY OF ESCONDIDO

SECTION THREE PROJECT TEAM QUALIFICATIONS AND REFERENCES

EDUCATION

BS, Civil Engineering,
Iowa State University, IA

REGISTRATION

Professional Engineer (Civil):
California #82908,
Kansas #9145,
Missouri #021061

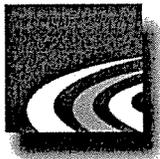
ITE Certified Professional Traffic
Operations Engineer (PTOE)
#318

American Institute of Certified
Planners (AICP) #018876

PROFESSIONAL AFFILIATIONS
Institute of Transportation
Engineers

American Institute of Certified
Planners

American Planning Association



CHARLES SCHWINGER, PE, PTOE, AICP
PROJECT MANAGER
Senior Engineer

With 39 years of experience in applying practical engineering solutions to the transportation planning process, Mr. Schwinger approaches each of his projects holistically, incorporating client goals, public values, and technical excellence. His responsibilities include project management, design, analysis, data collection and surveys, and production of construction plans, specifications and technical reports. His experience in transportation includes: street and highway design; intersection and interchange design; bikeway, trail and sidewalk design, signal design for isolated, interconnected and coordinated systems; street lighting design; signing and marking design; traffic control plans; accident analysis; traffic impact studies; capacity analysis; parking studies; public involvement; traffic circulation studies; origin-destination studies; transportation modeling; and citywide and corridor transportation studies. Recent Active Transportation projects include:

RELEVANT EXPERIENCE

- La Cañada Flintridge Foothill Boulevard Bike Lanes, La Cañada Flintridge, California – Project Manager
- 90th Street East/87th Street East Bike Lane Project, County of Los Angeles, California – Project Manager
- 170th Street East Bike Lane Project, County of Los Angeles, California – Project Manager
- East Avenue O Bike Lane Project, County of Los Angeles, California – Project Manager
- Los Angeles River Bike/Pedestrian Study, Los Angeles County, California – Project Engineer
- Pedestrian/Bike Friendly Corridor Concepts, Culver City, California – Project Engineer
- Port of Long Beach Pier J Bike Path Concept, Long Beach, California – Project Engineer
- North-South (Daisy to Myrtle) Bicycle Boulevard PS&E Design, Long Beach, California – Project Engineer
- Pacific Coast Highway Bikeway Design, San Clemente, California – Project Manager
- Pasadena Bike Master Plan, Pasadena, California – Project Engineer
- Orange County District 5 Bike Master Plan, Orange County, California – Project Engineer

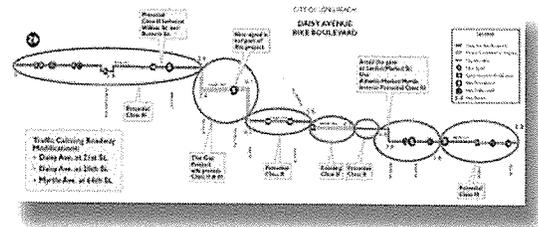
PROPOSAL FOR THE CITY OF ESCONDIDO
ESCONDIDO CREEK BIKEWAY MISSING LINK PROJECT

Charles Schwinger, PE, PTOE, AICP, Page 2

- Solana Beach Bike Master Plan, Solana Beach, California – Project Engineer
- Vista Bike Master Plan, Vista, California – Project Engineer
- San Diego Downtown Mobility Plan – Project Engineer
- Rathbun Active Transportation Corridor Study, Big Bear Lake – Project Engineer
- Santa Ana River Trail Pedestrian Path Design, Anaheim, California – Project Engineer
- SANDAG Uptown Bikeway 30% Design – Project Director
- Imperial County Transportation Commission California Land Ports of Entry Bike and Pedestrian Crossing Study – Project Manager
- Vista Safe Routes to School Master Plan – Project Manager

SANDAG Uptown Regional Bike Corridor Study, San Diego, CA

Project Director. The Uptown Regional Bike Corridor Study was a feasibility study of approximately 12 miles of new bikeways in the Uptown neighborhoods of San Diego. The study included an assessment of existing conditions, a community outreach component, and the development of alternatives. The study served as the basis for the development of 30 percent design plans. KOA is currently under contract for the plan development and has submitted two of the five Uptown corridors at the 30% design level to SANDAG for review.



Daisy Avenue Corridor Bicycle Boulevard, Long Beach, CA

Project Engineer. KOA is nearly complete in the preparation of PS&E on what will become the longest Bike Boulevard in California. One of the main purposes of the project is to serve the more than 3,000 students and five congressional districts throughout the area with a bike facility that is design for less experienced users. Treatments such as roundabouts, traffic circles, bicycle signals, bicycle detectors, and other greenway improvements have been designed. KOA did the initial conceptual planning and cost estimating prior to development of the engineering design.

Port of Long Beach South Waterfront and Pier J Bike and Pedestrian Path Basis of Design, Long Beach, CA

Project Engineer. KOA served as the prime consultant in the 30% level design of a bike and pedestrian path system connecting Downtown Long Beach with south waterfront attractions in the Port of Long Beach, including hotels, restaurants, the Harry Bridges Memorial Park, the Queen Mary, Catalina Express, Island Express Helicopters, Carnival Cruise, and Pier J. The 1.8 miles of pathways included class I bikeway, class II bikeway, shared use path, and sidewalk to accommodate accessibility to both pedestrians and bicycles. Amenities included a restroom, and observation platform, decorative fencing, pedestrian scale lighting, landscaping, wayfinding, and interpretive kiosks. KOA assisted the Port in preparing the content for an ATP grant application. 30% design layouts were prepared and used to develop construction cost estimates. Because of the number of attractions potentially benefiting from the project, KOA assisted in stakeholder outreach and coordination activities, including one on one meetings and a project walk through.



PROPOSAL FOR THE CITY OF ESCONDIDO
ESCONDIDO CREEK BIKEWAY MISSING LINK PROJECT

EDUCATION

BS, Civil Engineering, Minor in
Business Management, San Diego
State University, CA

REGISTRATION

Professional Engineer (Civil),
California #60954

Professional Land Surveyor (PLS)
#8250

Qualified Storm Water Developer
(QSD) #24096

Project Management Professional
(PMP) #1581559

DON BLOODWORTH, PE, PLS, QSD, PMP
PRODUCTION MANAGER
Senior Engineer

With 22 years of experience as a Project Manager / Senior Civil Engineer in the construction, land development, and especially the transportation fields. Mr. Bloodworth has managed, supervised internal staff, and directed subconsultants through all aspects of many large-scale civil works projects. He has prepared many engineering documents, such as project study reports, project reports, preliminary engineering reports, specifications and cost estimates, and final engineering documents in accordance with SANDAG, Caltrans, FHWA, FRA, and many various agency standards.

Mr. Bloodworth has participated in the development and successful completion of many contracts, as well as performed change order negotiations and executions. He conducts meetings with agency clients and provides detailed presentations to agency boards. He has performed many complex professional administrative duties, often with competing deadlines.

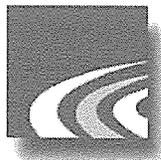
RELEVANT EXPERIENCE

SANDAG Uptown Bikeway Phase I and Phase 2, San Diego, CA

Project Manager and Responsible Engineer-of-Record for design and management for 12 miles of new Protected Bikeway Cycle Track through Uptown Community of the City of San Diego. Design includes miles of raised buffer protected bikeway, approx. 250 improved pedestrian bulbouts at intersections with new cross gutters, 23 traffic signal modifications, bus stop bulbouts, and unique bikeway striping and markings. Managed and directed internal staff and subconsultant staff, including surveying, geometrics, signing and striping, drainage facilities, utility relocation, traffic signals, street lights, construction access, right of way mapping, material quantities, engineer's cost estimate and specifications. Prepared and negotiated Change Orders. Prepared client invoices and progress reports.

13th Street Bikeway Improvements, Imperial Beach, CA

Project Manager and Responsible Engineer-of-Record for Final Engineering Improvement Plans to add 2 miles of Class II Bikeway from Bayshore Bikeway to Navy Base in the City of Imperial Beach. Project includes Traffic Signal Modification at 13th Street and Imperial Beach Boulevard and improved pedestrian bulbouts and new cross gutter at 13th Street and Grove Avenue. Managed and directed internal staff and subconsultant staff, including surveying, geometrics, signing and striping,





PROPOSAL FOR THE CITY OF ESCONDIDO
ESCONDIDO CREEK BIKEWAY MISSING LINK PROJECT

Don Bloodworth, PE, PLS, QSD, PMP, PE, Page 2

drainage facilities, utilities, traffic signals, cost estimate, and specifications. Prepared client invoices and progress reports.

East Valley Parkway , Escondido, CA

Signing, Striping, and Electrical Subconsultant Project Manager and Responsible Engineer-of-Record for Final Engineering Improvement Plans to improve 2 miles of East Valley Parkway to the northern boundary of City of Escondido. Project includes Traffic Signal Modifications at East Valley Parkway and Beven Drive and at Lake Wohlford Road. Managed and directed internal staff, including signing and striping, traffic signals, street lighting, cost estimate, and specifications. Prepared client invoices and progress reports.

State Route 74 / Interstate 215 Interchange Alternatives Analysis / Environmental Clearance (PA/ED Phase) Final Design (PS&E Phase) & Design Support During Construction, Perris, CA

Project Manager and Responsible Engineer-of-Record for design and management for modified state route to freeway interchange in Perris, CA. Design included demolish and reconstruct bridge over freeway, large MSE walls, retaining wall, and sound walls. Resolved complex construction staging and detour plans while maintaining traffic and pedestrian circulation. Design included new signalized intersections, signing, striping, local street improvements, and landscape architecture. Performed utility relocation coordination. Resolved complex right-of-way issues that included temporary construction easements, maintenance and access easements, partial acquisitions, and land transfers between state and city properties. Obtained NEPA and CEQA environmental documentation for the project. Obtained Caltrans approved Project Report (PR) and Modified Access Report (MAR). Prepared client invoices and progress reports, meeting minutes. Prepared and negotiated Change Orders. Prepared internal financial documents: cost-to-complete & projections. Supervised internal staff and subconsultant designers.

EDUCATION

MS, Civil Engineering, Michigan State University, E. Lansing, MI

MS, Urban Planning, School of Architecture, Tsinghua University, Beijing, China

BS, Urban Planning, School of Architecture, Tongji University, Shanghai, China

REGISTRATIONS

Professional Engineer (Civil), California #66448

PROFESSIONAL AFFILIATIONS

Women's Transportation Seminar

International Chinese Transportation Professional Association

Institute of Transportation Engineers

MIN ZHOU, PE
PRINCIPAL-IN-CHARGE
Senior Engineer

Ms. Zhou has 23 years of transportation engineering and planning experience with both private consultant companies and public agencies. She is knowledgeable in road design, traffic design, transportation modeling and study, non-motorized transportation, database management, and statistical analysis. Ms. Zhou has managed several large-scale projects involving multiple stake holder groups and has a reputation of delivering projects on-time and under budget.

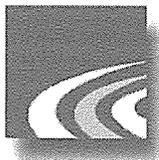
RELEVANT EXPERIENCE

Daisy Avenue Corridor Bicycle Boulevard PS&E Design, Long Beach, CA

KOA Project Manager. KOA developed a 10-mile bike facility along Daisy corridor in the City of Long Beach, which included Class II and Class III bike lanes, along with other innovative solutions. KOA managed more than four subconsultants for this project due to SBE requirements. A grant obtained via an SR2S application prepared by KOA was used for this project, due to an SR2S element of the corridor, which had the capacity to serve 2,000 students and five congressional districts throughout the area. Treatments such as roundabout, traffic circle, traffic signal, bicycle detector, and other greenway improvements were provided at the concept design stage of the project. Ms. Zhou managed the project and was the liaison between the consultant team, the City of Long Beach, and the project stakeholders.

Port of Long Beach Pier J Bike Path PS&E, Long Beach, CA

KOA Project Manager. The KOA team helped the Port design their first bike path, which ran adjacent to various tourist attractions. A combination of Class I, II, and III bike lanes; innovative bike facilities; landscapes; wayfinding signs; public art/display boards; and three crescent piers were provided for pedestrians and bicyclists along the southshore ocean front area that included access to the the hotels, the Harbor Light Yacht Club, the Reef Restaurant, Harry Bridges Memorial Park, Catalina Express charter services, the Russian Submarine Scorpion, the RMS Queen Mary, Carnival Cruise Lines terminal, Island Express Helicopters, and the recreational fishing area along the riprap lining the east shoreline of Pier J. Ms. Zhou managed KOA staff and five other firms for this project. She provided project oversight and was the liaison between the project team, the Port of Long Beach, and the project stakeholders, which included the above-mentioned businesses.



Broadway and Third Street Protected Bicycle Lanes Project, Long Beach, CA

Task Leader. Broadway and Third Street formed a one-way couplet providing important access from the downtown core of Long Beach to the I-710 Freeway. The City retained KOA to develop a protected bikeway facility, known in Europe as a cycle track, to provide an enhanced facility for bicyclists accessing the downtown area. The protected bikeway shifted parking away from the curb line and provided a bikeway located between parked vehicles and the left-side curb. Special left-turn signals and bicycle signals were provided to reduce conflicts between left-turn vehicles and the bikeway. Adjacent crosswalk signals were re-timed to provide synchronization for both motorists and bicyclists. The project required approval by the Federal Highway Administration (FHWA) for the use of bicycle signal indications and green pavement paint in certain conflict zones. The project had its grand opening in April 2011. Due to the experimental nature of the project, KOA continued to provide services after its opening, to fine-tune and improve the design.

Mobility Element of the General Plan, Long Beach, CA

Principal-in-Charge. KOA prepared the non-motorized and multi-modal components of the Mobility Element of the City's General Plan. The plan elements included discussion of pedestrians, bicycling, transit, and alternative street planning and design approaches. KOA conducted survey and research to assess the City's existing circulation facilities, and prepared a pedestrian element and a sketch plan for implementation of the Bikeway Plan for the Mobility Element. As part of this effort KOA inventoried roadway right-of-way, curb-line width, and traffic volumes, and estimate future traffic volume and level of service on City roadways. KOA identified and analyzed roadways where it may be possible to preserve traffic level of service while eliminating travel lanes that may not be necessary for motor vehicle traffic (road diet treatments). KOA also recommended other alternative street cross sections and intersection treatments such as curb extensions, roundabouts, median treatments and parking alternatives. Innovative bikeway treatments were also discussed and recommended, including bike boulevards, protected bikeways, buffered bikeways, colored pavements, informational signage and route numbering. KOA assisted the City in conducting workshops and community meetings for the ongoing update of the City's General Plan Mobility Element, and prepared materials for presentations to the Planning Commission.

Vista Street and 2nd Street Bike Boulevard Feasibility Study and PS&E Design, Long Beach, CA

Task Leader. This project is to study the alternatives of a bike boulevard assignment and design the Bike Boulevard to promote bike ridership as well as to calm traffic in the residential area. The study also recommended roundabout design, curb extension (diverters), signing, striping, and signal design. As part of the overall design, a FHWA approved demonstration for bike facilities was implemented and installed on 2nd Street from Livingston to the east city limit in July 2009 that will last 6 months.

Bikeway Master Plan, Long Beach, CA

Principal-in-Charge. The City of Long Beach retained KOA to prepare an update to its Bikeway Master Plan. The previous 2002 version of the plan did not provide for innovative approaches to implementation of bikeway facilities, and the City had found it difficult to implement the specified bikeway network based upon the facilities noted in the plan. The proposed update addresses additional bikeway facility types such as bicycle boulevards, sharrow markings, protected lanes, road diets, bicycle boxes and other innovative



PROPOSAL FOR THE CITY OF ESCONDIDO
ESCONDIDO CREEK BIKEWAY MISSING LINK PROJECT

Min Zhou, PE, Page 3

treatments that have been tested successfully at sites in Long Beach (with the assistance of KOA) and are now being developed for many other communities. The City's bikeway plan will be modified under this project to establish a city-wide network of bikeways that takes advantage of a wide variety of innovative treatments. KOA is also assisting the City to conduct extensive outreach program (10 to 20 outreach meetings) in order to adopt the new Bicycle Master Plan.

EDUCATION

MS, Civil Engineering, Wayne State University, Detroit, MI

MS, Civil Engineering, Wayne State University, Detroit, MI

REGISTRATIONS

Professional Engineer (Traffic):
California #1143,
Oregon #16386

Environmental Certificate (Traffic):
San Diego County

PROFESSIONAL AFFILIATIONS

American Planning Association

American Public Works Association

Association of Environmental Professionals

Institute of Transportation Engineers

Urban Land Institute



ARNOLD TORMA, PE

TRAFFIC ENGINEERING SERVICES

Senior Engineer

Mr. Torma is a California-registered traffic engineer with more than 40 years of experience in all aspects of municipal and regional transportation planning and engineering including transit planning, design and operations. He has participated in several border and port of entry related studies in San Diego and Imperial County.

RELEVANT EXPERIENCE

National City Downtown Specific Plan, National City, CA

Project Manager. Mr. Torma assisted in developing a coherent vision for the downtown area of the City of National City. Planning for this project included envisioning ways to improve livability within the City while also appealing to potential visitors to the downtown area. Mr. Torma addressed issues such as pedestrian walkability, speed studies, transit development and parking needs.

City of Imperial Beach As-Needed Traffic Engineering Services, Imperial Beach, CA

Project Manager. KOA is currently providing on-call traffic engineering services to the City of Imperial Beach. The nature of our services encompasses a wide range of traffic engineering services, including new and modified traffic signal designs, traffic studies, speed studies, as well as signal and stop sign warrant analysis. We respond to citizen comments and requests and attend community meetings.

Chula Vista Bayfront Master Plan, Chula Vista, CA

Project Manager. Mr. Torma directed KOA's efforts to assist in the provision of professional urban waterfront planning and design consulting services for the Chula Vista Bayfront Master Plan Study (CVBMP). The firm worked with the San Diego Unified Port District and City of Chula Vista staff throughout the master planning process to produce a Chula Vista Bayfront Master Plan that includes land and water use recommendations with three master plan alternatives for the approximately 300 acres of state tidelands comprising the study area. The process involved an extensive public outreach program. The CVBMP will contain sufficient detail for a project description meeting the mandates of CEQA and the Port Master Plan Amendment prepared pursuant to the



ESCONDIDO CREEK BIKEWAY MISSING LINK PROJECT

Arnold Torma, PE, Page 2

California Coastal Act. Overcoming the potential segregation effect of the Interstate 5 with opportunities to considerably improve transportation links from the City's urban core are key features of this project.

EDUCATION

BS, Civil and Environmental
Engineering, University of
California, Berkeley, CA

BA, Community Studies,
University of California, Santa
Cruz, CA

REGISTRATIONS

Professional Engineer (Civil),
California #66825

LAURA PARSONS, PE
BIKEWAYS TASK LEADER
Senior Civil Engineer

Ms. Parsons has more than 15 years of experience managing state and federally-funded infrastructure projects (design, construction and inspection), sidewalk repair programs, grease trap inspection programs, and backflow testing programs. She has managed design consultant contracts: developing RFPs, reviewing proposals, interviewing, marking up plans and specifications; and developing construction cost estimates.

RELEVANT EXPERIENCE

SANDAG Uptown Regional Bike Corridors Project, San Diego, CA

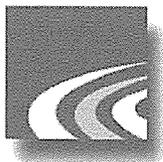
Design Lead. Ms. Parsons is the engineering lead on SANDAG's Uptown Regional Bike Corridors Project, which includes approximately 12 miles of innovative bicycle facilities and pedestrian enhancements from Mission Valley to Downtown. The facilities are focused on creating a low stress system that serves people of all ages and abilities. This work encompasses much more than a bike project and involves numerous relevant design features that promote place-making including pocket parks, public plazas created through street repurposing, etc. Besides managing many complex components of the overall project, Ms. Parsons guides the design team in the preparation of concept plans, delineation plans, the creation of materials for public workshops, and the development of construction cost estimates.

Big Bear Lake Rathbun Recreational Corridor Study, Big Bear Lake, CA

KOA Project Manager. KOA is providing engineer services to a corridor planning project led by MIG for the City of Big Bear Lake. The project entails the redevelopment of an underutilized corridor into a recreational based corridor between the ski slopes and the lake. The plan includes the development of bike and pedestrian access throughout, enhancement of traffic movement, evaluation of on and off-street parking, and redevelopment of commercial retail. The scope of the project includes extensive community involvement.

Downtown San Diego Mobility Plan, San Diego, CA

KOA Project Manager. KOA serves as a sub-consultant to Chen Ryan to provide active transportation solutions for mid-block and integration treatments to enhance bicycle and pedestrian movements in the Downtown San Diego Mobility Plan. Our role in the project is to provide safe and practical solutions for the proposed routing of bicycles through





ESCONDIDO CREEK BIKEWAY MISSING LINK PROJECT

Laura Parsons, PE, Page 2

the downtown area. Study elements include the impacts of complete streets on parking displacement, and signal operation, and construction costs.

EDUCATION

BS, Civil Engineering, Stanford University, Stanford, CA

MS, Civil Engineering, Stanford University, Stanford, CA

REGISTRATIONS

Professional Engineer (Civil): California #C27648

PROFESSIONAL AFFILIATIONS

International Right-of-Way Association

American Public Works Association



MICKEY AGUIRRE

SURVEY SERVICES TASK LEADER

Principal Land Surveyor

Mr. Aguirre has 40 years of experience in managing, directing and performing civil engineering and land surveying tasks. His experience includes 10 years in the municipal sector prior to founding Aguirre & Associates in 1986. Both municipal and private survey and mapping experience includes a broad range of projects, including transit and mass transit, public works, residential, commercial churches, schools and other institutional project. Mr. Aguirre has extensive surveying and mapping experience on bikeway projects.

RELEVANT EXPERIENCE

Uptown Regional Bike Corridors, San Diego, CA

Principal Land Surveyor. Aguirre & Associates is survey and mapping sub-consultant to SANDAG for this bike path design project. Under the preliminary engineering work order, Aguirre & Associates provided aerial control and mapping for over 12 miles of bike corridors. Street centerlines were surveyed and mapped for the entire length. For the final design work order, Aguirre & Associates set and surveyed ground control for, and performed topographic surveys of 67 intersections in the Phase I corridor. Break lines based on ground shots were prepared in our office and provided to the photogrammetrist in order for the aerial mapping DTM to be updated.

Bayshore Bikeway, Chula Vista, National City, San Diego, CA

Principal Land Surveyor. Aguirre & Associates was survey and mapping sub-consultant to SANDAG for this bike path design project. Under this work order, Aguirre & Associates provided field surveying for a 4.5 mile stretch of the proposed Bayshore Bikeway Class I path. This bike path is identified in the Bayshore Bikeway Plan as Segments 4, 5, 7, and 8A from 32nd Street in San Diego along Harbor Drive, through National City primarily along Tidelands Avenue, and from H Street to Stella Street in Chula Vista along Bay Boulevard and the San Diego & Arizona Eastern Railroad. Survey tasks included aerial and ground control surveys, topographic, and design surveys.

EDUCATION

BS, Civil Engineering, San Diego State University, San Diego, CA

REGISTRATIONS

Professional Engineer (Civil), California #58952

PROFESSIONAL AFFILIATIONS

American Society of Civil Engineers (ASCE)

ASCE Transportation Group

KEITH GAZAWAY, PE

BRIDGE SERVICES TASK LEADER

Principal Professional

Mr. Gazaway has nearly 20 years of professional experience in the design, rehabilitation, and construction inspection of bridges and structures in California, and he is currently a Senior Bridge Engineer at Kleinfelder. He has been involved in all phases of engineering from planning studies through final design and construction. Included in his experience is a wide range of engineering duties, including project management, design (new and seismic retrofit), quality control, value analysis, and preparation of plans, specifications, and estimates. He has been a member of the design team on over 50 bridge projects, including several award winners, as well as numerous non-bridge structural design projects including retaining walls, pump vaults, and underground culverts.

RELEVANT EXPERIENCE

Rose Creek Bikeway, San Diego, CA

Project Manager. Mr. Gazaway serves as the Project Manager for the structural design of SANDAG's Rose Creek Bikeway from Mission Bay Drive to Santa Fe Street. Improvements include bridge undercrossings using lightweight cellular concrete at Mission Bay Drive and Interstate 5, over 850 feet of retaining walls, and a 250-foot-long bicycle/utility bridge over Rose Creek in a seismic fault rupture zone. Services range from conceptual planning studies to final design, and PS&E deliverables require coordination with concurrent SANDAG contracts such as Mid-Coast Corridor Transit and Elvira to Morena Double Track Project.

Poway Road Bike Path, San Diego, CA

Project Manager. Mr. Gazaway served as the Project Manager for the structural elements of the Poway Road Bike Path Project in the City of San Diego. Improvements included two Keystone retaining walls totaling a length of 1,430 feet with design heights up to 16 feet. Services ranged from planning studies through construction support.

Ted Williams Parkway Pedestrian Overcrossing at Shoal Creek Drive, San Diego, CA

Independent Checker. Mr. Gazaway performed the independent check of this 490-foot-long pedestrian bridge connecting homes to the Shoal Creek Elementary School across Ted Williams Parkway, a busy six-lane expressway in Carmel Mountain Ranch. The bridge superstructure features a unique combination of cast-in-place box girders and precast bulb-tee girders to achieve the optimal vertical profile, as well as a 180-degree switchback in the bridge due to space constraints. The



project utilized federal funds through the Safe Routes to School program.

Genesee Avenue Pedestrian Overcrossing, San Diego, CA

Design Engineer. Mr. Gazaway performed the bridge Type Selection and served as a Design Engineer for this unique pedestrian bridge. The 260-foot-long, 18-foot wide, cast-in-place box girder bridge was designed for an extreme horizontal curve, and will provide a direct connection across Genesee Avenue for a new bicycle and pedestrian path. The unusual curvature of the bridge required a high level of analysis that included development of a 3-D finite element model. Integral colored concrete, pilasters, form liners, weathering steel railing and lighting were all added to the final design of the project to complete the desired aesthetic theme. The project was greatly accelerated in order to take advantage of additional state funding sources, requiring completion of a full PS&E package in under four months.

Encinitas Coastal Rail Trail, Encinitas, CA

Project Manager. Mr. Gazaway serves as the Project Manager for the conceptual structural design of SANDAG's Encinitas Chesterfield Drive to E Street Coastal Rail Trail Project. Improvements include a 75-foot-long bridge and three retaining walls within the railroad right-of-way. Initial services include structures alternatives, cost estimates, and Type Selection plans.

East Valley Parkway (Valley Center) Bridge Widening, Escondido, CA

Design Engineer. Mr. Gazaway served as a Design Engineer on the Valley Center Road Bridge Widening as part of the East Valley Parkway Improvement project. The existing precast structure was approximately 102 feet long and 73 feet wide, spanning the environmentally sensitive Escondido Creek. The project involved bridge widening by 18 feet to accommodate the addition of a median, a bike path, and a six-foot-wide sidewalk. The bridge's existing concrete barrier was modified to incorporate a decorative railing and satisfy current Caltrans standards. The aesthetically similar precast slab bridge widening was designed to support vehicular and pedestrian traffic as well as excessive existing AC overlay.

La Media South Pedestrian Overcrossing, Chula Vista, CA

Project/Design Engineer. Mr. Gazaway served as the Project and Design Engineer for this 483-foot-long, five-span, box girder bridge over La Media Road in the City of Chula Vista. The width of the walkway is 15 feet, with an overall structure width of 17 feet. In addition, architectural features and enhancements were incorporated in the design to integrate the bridge with the surrounding environment and residential development. The bridge features a haunched superstructure to achieve long spans while maximizing vertical clearance, as well as a 180-degree switchback in the bridge due to space constraints.

West Olympic Parkway Pedestrian Overcrossing, Chula Vista, CA

Project/Design Engineer. Mr. Gazaway was the Project and Design Engineer for this 650-foot-long bridge connecting homes to the Otay Ranch High School across a wide, environmentally sensitive drainage channel and across Olympic Parkway. The bridge features a haunched superstructure to achieve long spans while maximizing vertical clearance, as well as a 180-degree switchback in the bridge due to space constraints. This project was awarded the "2007 Outstanding Project – Bridge and "2007 Pedestrian Bridge Award from the American Society of Civil Engineers San Diego Section.



PROPOSAL FOR THE CITY OF ESCONDIDO
ESCONDIDO CREEK BIKEWAY MISSING LINK PROJECT

Keith Gazaway, PE, Page 3

Mid-Coast Corridor Transit Project, San Diego, CA

Structures Task Manager. Mr. Gazaway serves as the Bridge Task Manager for this light rail project for SANDAG, which extends trolley service from Old Town to UCSD. Being responsible for the design of five bridges along this corridor, his oversight and management duties include developing new LRFD design criteria for light rail vehicles, preparing cost estimates and Type Selection Reports for each bridge, and reviewing final plans and calculations. The project requires coordination of the FTA, Caltrans, SANDAG, MTS, NCTD, the City of San Diego, and numerous utility companies and private entities.

EDUCATION

MS, Civil/Geotechnical
Engineering, University of
Alabama in Huntsville

BS, Civil Engineering, Osmania
University, India

REGISTRATIONS

Professional Engineer
(Geotechnical), California #3047

Professional Engineer (Civil),
California #74186

PROFESSIONAL AFFILIATIONS

American Society of Civil
Engineers (ASCE)

MADAN CHIRUMALLA, PE, GE
GEOTECHNICAL SERVICES TASK LEADER
Senior Project Engineer

Mr. Chirumalla manages geotechnical projects; prepares geotechnical reports and reviews plans and specifications; provides supervision of field investigations; assigns and reviews geotechnical laboratory testing data; and evaluates field compliance with written earthwork specifications. Mr. Chirumalla has provided geotechnical and construction phase services for a variety of projects including bridges, roadways, railroads, transmission lines, power plants, reservoirs, levees, pipelines, parking structures, recreational park facilities, schools, government facilities, commercial facilities, and industrial facilities.

RELEVANT EXPERIENCE

**City of Carlsbad Coastal Rail Trail Roundabout Project,
Carlsbad, California**

Project Engineer for a geotechnical evaluation for the City of Carlsbad Coastal Rail Trail Roundabout project. The project included construction of a roundabout at the intersection of Carlsbad Boulevard and State Street, and improvements to the roadway, bikeways, and sidewalks along the roadway alignments within Carlsbad. Services included background review; performance of a geologic reconnaissance; performance of a subsurface exploration consisting of drilling one boring to evaluate the subsurface conditions; performance of geotechnical laboratory testing; compilation and analysis the data obtained; and preparation of a geotechnical design and data report presenting our findings and conclusions. The report also included geotechnical recommendations for the design and earthwork construction of the project.

Rosecreek Pedestrian Bridge, San Diego, California

Project Engineer for a preliminary geotechnical evaluation for the pedestrian bridge across Rose Creek at the SR-52 and I-5 interchange. The bridge is part of the Rose Creek Watershed Trail Project. The bridge consists of a single-span, prefabricated, steel truss pedestrian bridge structure founded on spread footings at the abutments. Based on these plans, the approximately 200-foot long by 12-foot wide bridge will link the existing Rose Canyon Bicycle Trail with a new east trail. Services included review of background data; performance of a geologic reconnaissance of the site; performance of a limited subsurface evaluation consisting of the excavating, logging, and sampling of exploratory hand-auger borings to evaluate the subsurface soils; performance geotechnical laboratory testing; compilation and analysis of the data obtained; and preparation of a report presenting our findings, conclusions, and



recommendations for design and construction of the project.

Ted Williams Parkway Pedestrian Bridge Project, San Diego, California

Project Engineer for a geotechnical evaluation of a temporary backcut and soil nail wall for the Ted Williams Parkway Pedestrian Bridge project. The project involves a pedestrian bridge is presently being constructed over Ted Williams Parkway (connecting the northern and southern portions of Shoal Creek Drive) as well as a southerly approach for the pedestrian bridge. Services included review of background information; construction of cross sections that depict the temporary slope configuration utilizing topographic information provided in the project plans, along with information presented in geotechnical documents and other information that is pertinent to the site; performance of limited geotechnical laboratory testing on selected samples; performance of quantitative analyses of the stability of the temporary slope configuration; and preparation of a report presenting our findings and conclusions regarding the temporary slope and geotechnical recommendations as they pertain to the design and construction of the soil nail wall.

Lake Calavera Boardwalk Trail, Carlsbad, California

Project Engineer for a geotechnical evaluation for the Lake Calavera Boardwalk Trail project. The project consists of two pedestrian trail segments termed Creek Crossing and East Boardwalk Areas located south of Lake Boulevard and east to northeast of Lake Calavera. The trail alignment consists of a dirt pathway within a generally undeveloped area with temporary wooden crossings/planks spanning sections of standing and running creek water of varying depths. Services included review of background information including available geologic maps, project plans, and product data for the Diamond Pier (DP) Foundation System; performance of a site reconnaissance to observe existing site conditions; performance of excavating, logging, and sampling of exploratory test pits along the planned alignments for the elevated trail platforms; performance of geotechnical laboratory testing on representative samples; compilation and performance of an engineering analysis of the data obtained; and preparation of a geotechnical report providing our findings, conclusions, and geotechnical recommendations for the DP Foundation System.

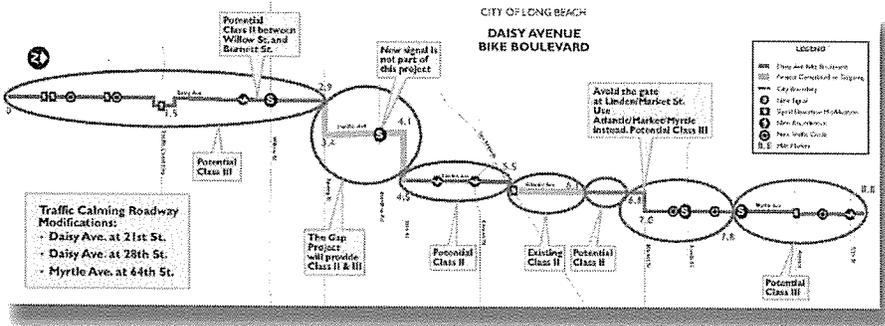
**SECTION THREE
 PROJECT TEAM QUALIFICATIONS AND REFERENCES**

KOA CORPORATION PROJECT EXPERIENCE



Daisy Avenue Corridor Bicycle Boulevard PS&E Design, Long Beach, California

KOA is in the process of completing the final design for a 10-mile bike boulevard facility along the Daisy/Linden/Myrtle corridor in the City of Long Beach, which includes both Class II and Class III bike lanes, along with other innovative intersection treatments. Previously, KOA identified 34 intersection treatments to enhance bicycling north-south through Long Beach along the corridor. Through several iterations, the development of conceptual layouts, and cost estimates, the number of intersection treatments has been reduced to 19 locations for final design. KOA has integrated

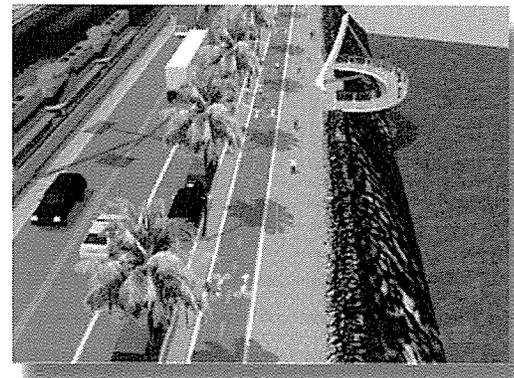


four sub-consultants into this project to provide meaningful SBE participation in the design opportunity. A grant obtained through the Safe Routes to School program was used to help finance this project, and will provide 2,000 students in five congressional districts with improved opportunities for biking to school. Treatments such as roundabouts, traffic circles, median refuges, bike boxes, traffic signals with bike detection, and other greenway improvements have been included in enhancing the bike-friendly corridor.

Reference: Steve Tweed, Project Manager, City of Long Beach - Public Works Department, (562) 570-6266

Port of Long Beach South Waterfront Pier J Bike Path PS&E, Long Beach, CA

KOA prepared 30% design for the Port's first bike path, which will run adjacent to various tourist attractions. A combination of Classes I, II, and III, innovative bike facilities, landscapes, wayfinding signs, public art/display boards, and three crescent piers will be provided for pedestrians and bicyclists along the southshore ocean front area that includes access to the hotels, the Harbor Light Yacht Club, the Reef Restaurant, Harry Bridges Memorial Park, Catalina Express charter services, the Russian Submarine Scorpion, the RMS Queen Mary, Carnival Cruise Lines terminal, Island Express Helicopters, and the recreational fishing area along the riprap lining the east shoreline of



SECTION THREE PROJECT TEAM QUALIFICATIONS AND REFERENCES

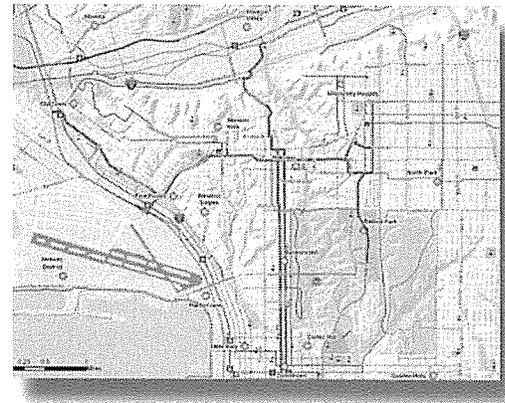
Pier J. KOA managed subconsultants to perform the structural work and associated architectural, mechanical, electrical, and plumbing for the restroom facility, the cantilevered pier outlook structures, and the retaining walls and performed landscaping and wayfinding services for the project.



Reference: Neil Morrison, Port of Long Beach, (562) 283-7853

SANDAG Uptown Regional Bikeway Corridor 30% Design, San Diego, CA

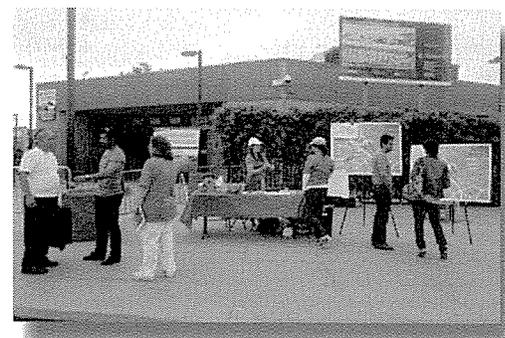
KOA recently completed the 30% level design of five bikeway corridors in the Uptown Area of San Diego. Through the design process we have become thoroughly familiar with SANDAG expectations for Class I bikeway design, and the challenges of applying NACTO guidelines to specific street configurations in San Diego. Our services to SANDAG on the 30% design have included plan delineation sheets, typical sections, evaluation of parking impacts, traffic analysis, cost estimates, landscaping design, and public involvement support.



Reference: Beth Robrahn, SANDAG, (619) 699-6980

ICTC Pedestrian and Bicycle Transportation Access Study - California/Mexico Land Ports of Entry, Imperial and San Diego Counties, CA

KOA was selected by the Imperial County Transportation Commission in cooperation with Caltrans and SANDAG to conduct a study of the issues and opportunities for pedestrian and bicycle crossing enhancements at the six land ports of entry in California. The services included on-site interviews of pedestrians and cyclists, with more than 400 public comments provided. The study identified existing deficiencies in the LPOE infrastructure to serve transit, pedestrians and cyclists, and recommended capital and operations improvements to enhance the border crossing experience for these users. KOA coordinated the study efforts through a Working Group consisting of multiple agencies and stakeholders. Handout materials were produced in English and Spanish, and bilingual staff provided for participation of Spanish speaking stakeholders.



Reference: Virginia Mendoza, Imperial County Transportation Commission, (760) 592-4494, x201

SECTION THREE PROJECT TEAM QUALIFICATIONS AND REFERENCES

AGUIRRE AND ASSOCIATES PROJECT EXPERIENCE

Bayshore Bikeway, San Diego, California

Aguirre & Associates was survey and mapping sub-consultant to SANDAG for this bike path design project. Under this work order, Aguirre & Associates provided field surveying for a 4.5 mile stretch of the proposed Bayshore Bikeway Class I path. This bike path is identified in the Bayshore Bikeway Plan as Segments 4, 5, 7, and 8A from 32nd Street in San Diego along Harbor Drive, through National City primarily along Tideland Avenue, and from H Street to Stella Street in Chula Vista along Bay Boulevard and the San Diego & Arizona Eastern Railroad. Survey tasks included aerial and ground control surveys, topographic, and design surveys.

Reference: Stephan Vance, SANDAG, (619) 699-1924

Uptown Regional Bike Corridors, San Diego, California

Aguirre & Associates is survey and mapping sub-consultant to SANDAG for this bike path design project. Under the preliminary engineering work order, Aguirre & Associates provided aerial control and mapping for over 12 miles of bike corridors. Street centerlines were surveyed and mapped for the entire length. For the final design work order, Aguirre & Associates set and surveyed ground control for, and performed topographic surveys of 67 intersections in the Phase I corridor. Break lines based on ground shots were prepared in our office and provided to the photogrammetrist in order for the aerial mapping DTM to be updated.

Reference: Chris Kluth, SANDAG, (619) 699-1952



SECTION THREE PROJECT TEAM QUALIFICATIONS AND REFERENCES

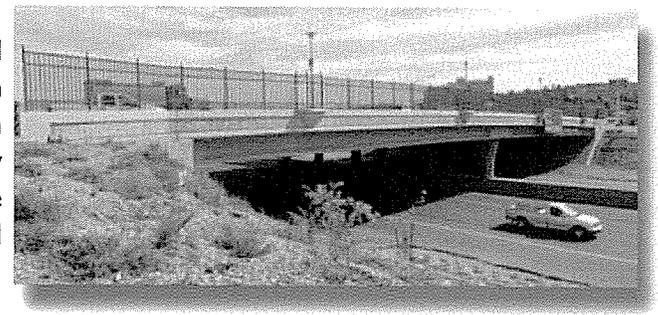
KLEINFELDER PROJECT EXPERIENCE

SR-78/Nordahl Road Overcrossing Replacement, Escondido, California

Kleinfelder served as the prime consultant for the SR-78/Nordahl Road Overcrossing Project in Escondido, California. The project widens the bridge from six lanes to seven and aims to reduce traffic congestion on Nordahl Road, adjacent intersections, and on SR-78 ramps. Additional project elements included raising the profile of Nordahl Road to eliminate the substandard vertical clearance at the bridge, designing exceptions for substandard intersection and interchange spacing, multi-city coordination, and a temporary pedestrian bridge to reduce staging while maintaining pedestrian access.



Working collaboratively with the cities of San Marcos and Escondido as well as the Value Analysis team resulted in the development of a simplified staging plan that saved both time and money. This unique approach utilized a temporary pedestrian and bicycle bridge over SR-78 during the bridge replacement, which eliminated a full construction stage and improved the project safety.



This project was over the Caltrans right-of-way and required review and approval of Caltrans District II and Division of Structures. Kleinfelder worked closely with the Caltrans Project Manager, as well as the cities of Escondido and San Marcos staff to determine the most appropriate project approval and environmental documents resulting in the best solution for the project.

The SR-78/Nordahl Road Overcrossing Replacement project earned the ASCE San Diego Section 2013 Award of Merit in the Civil Engineering Project Awards Bridge category.

Reference: Ed Domingue, Public Works Director/City Engineer, City of Escondido, (760) 839-4813

SECTION THREE PROJECT TEAM QUALIFICATIONS AND REFERENCES

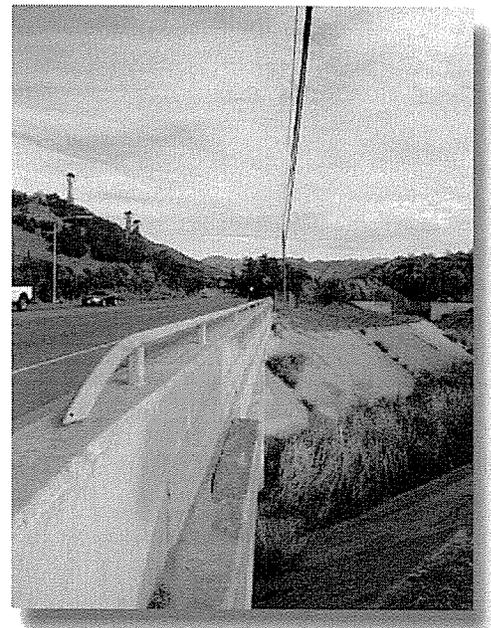
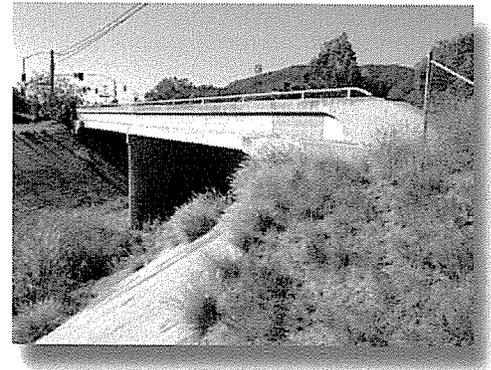
Valley Center Road Bridge Widening, Escondido, California
Kleinfelder provided design services for the Valley Center Road Bridge widening as part of the East Valley Parkway Improvement project. The existing two-span precast structure is approximately 102 feet long and 73 feet wide and spans the environmentally sensitive Escondido Creek. The East Valley Parkway project involves widening the bridge by 18 feet to the east to accommodate the addition of a median, bike path, and a barrier separated six-foot-wide sidewalk protecting pedestrians from the 60 miles per hour traffic.

The existing concrete barrier on the western side of the bridge will be modified to incorporate a decorative railing to match the proposed conditions and to bring the barrier rail up to current Caltrans standards for height and spacing. The aesthetically similar precast slab bridge widening was designed to support vehicular and pedestrian traffic, excessive existing Asphalt Concrete (AC) overlay, and to rock during a seismic event to maintain similar performance between the existing bridge and the proposed widening.

A seismic analysis was completed on the existing structure, which determined a seismic retrofit would not be necessary. In order to accommodate the varying bedrock surface and the potentially liquefiable soil conditions, the pier wall extension rests on a pile cap supported by 24-inch permanently cased cast-in-drilled-hole (CIDH) piles of varying length. The abutments are supported by driven steel piles.

In addition to the inclusion of lighting and communications utilities in the proposed precast slabs, the widened bridge was designed to accommodate the potential future addition of a water main to be hung along the outside edge of the bridge. Overhead utilities along the eastern widened edge of the bridge will be relocated underground to allow for the construction and operation of the bridge widening.

Reference: Matthew Souttere, Associate Engineer, City of Escondido, (760) 839-4574



SECTION THREE
PROJECT TEAM QUALIFICATIONS AND REFERENCES

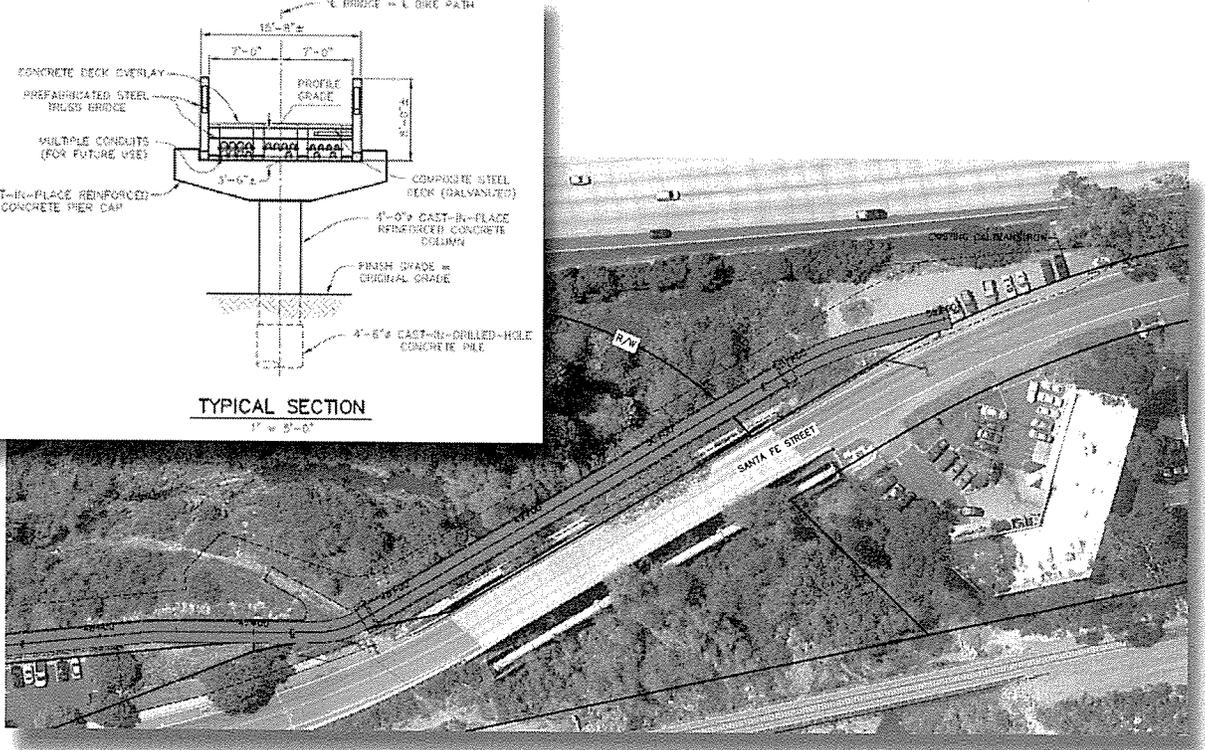
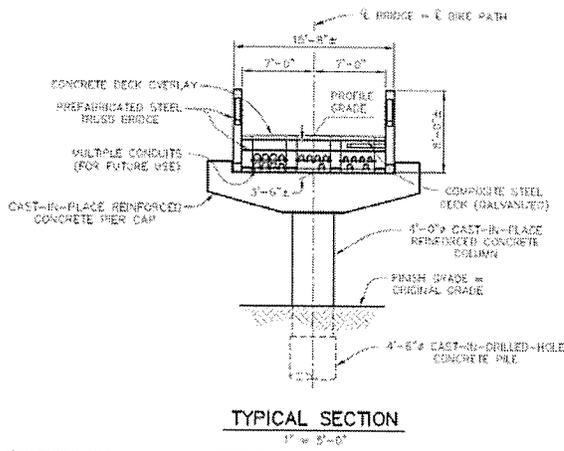
Rose Creek Bikeway, San Diego, California

The Rose Creek Bikeway will be a Class I bike path and protected bikeway that connects existing sections of the Rose Canyon and Rose Creek bike paths. The project fills an approximately two-mile gap in the regional bicycle network between Mission Bay Drive and Santa Fe Street. The Rose Creek Bike Path project is part of the regional Coastal Rail Trail, a 40-mile system of multi-use trails extending from the City of Oceanside to Santa Fe Depot in Downtown San Diego.



Improvements along Rose Creek include bridge undercrossings using lightweight cellular concrete at Mission Bay Drive and Interstate 5, over 850 feet of retaining walls, and a 250-foot-long bicycle/utility bridge over Rose Creek in a seismic fault rupture zone. Services range from conceptual planning studies to final design, and PS&E deliverables require coordination with concurrent SANDAG contracts such as Mid-Coast Corridor Transit and Elvira to Morena Double Track Project.

Reference: Chris Carterette, Project Manager, SANDAG, (619) 699-7319



SECTION THREE PROJECT TEAM QUALIFICATIONS AND REFERENCES

NINYO & MOORE PROJECT EXPERIENCE

Imperial Beach Eco-Route Bikepath, Imperial Beach, California

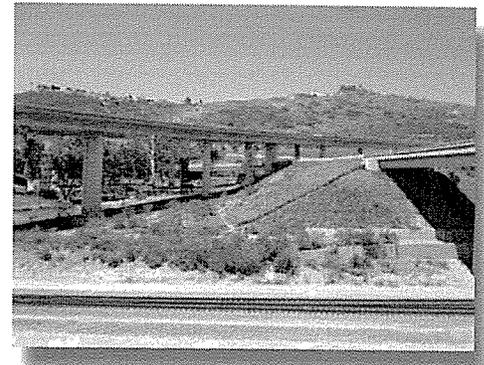
Ninyo & Moore performed a preliminary geotechnical and infiltration study for the proposed Eco-Route Bikepath project on Palm Avenue in the City of Imperial Beach. The subject portion of Palm Avenue was between 3rd and 7th Streets. The project site was an asphalt concrete street (AC), with adjacent concrete curb and gutter, sidewalks, and landscaping. The project included demolition and replacement of existing concrete curbs, pedestrian ramps, sidewalks, and landscaping. Improvements included construction of integrated planters. The improvements were planned as part of a Low Impact Development (LID) stormwater management program to provide stormwater infiltration of the roadway runoff. Ninyo & Moore's services included review of available published and in-house geotechnical literature, topographic maps, geologic maps, improvement plans, and stereoscopic aerial photographs; performance of a field reconnaissance to observe site conditions and to locate and mark proposed exploratory excavations; performance of cores within the existing AC pavement to measure the existing pavement section; performance of a subsurface evaluation consisting of the excavation, logging, and sampling of exploratory borings; geotechnical laboratory testing on selected soil samples to evaluate design parameters; performance of infiltration testing at several locations along the project to evaluate the infiltration rates of near surface soils; and preparation of a geotechnical report which provided conclusions and geotechnical recommendations for site preparation and earthwork, excavation characteristics, recommended pavement sections and subgrade preparation, and soil corrosivity.



Reference: Arnold Torma, KOA Corporation, (619) 683-2933

Rose Creek Pedestrian Bridge, San Diego, California

Ninyo & Moore performed a preliminary geotechnical evaluation for the pedestrian bridge across Rose Creek at the SR-52 and I-5 interchange in San Diego, California. The bridge is part of the Rose Creek Watershed Trail Project. The bridge consists of a single-span, prefabricated, steel truss pedestrian bridge structure founded on spread footings at the abutments. The approximately 200-foot long by 12-foot wide bridge will link the existing Rose Canyon Bicycle Trail with a new east trail. The project also involved retaining walls which were



SECTION THREE PROJECT TEAM QUALIFICATIONS AND REFERENCES

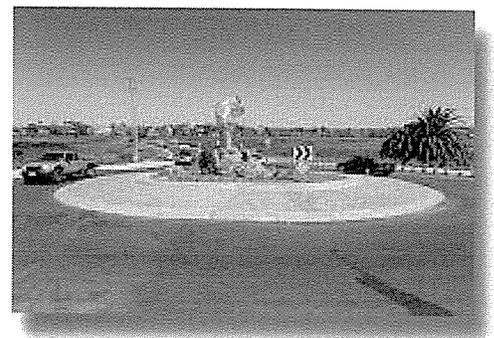
constructed of soldier piles with precast concrete panels over 20 feet in height with a row of tie-back anchors. The tie-back retaining wall crosses beneath existing Caltrans bridges. Ninyo & Moore's services included review of background data including topographic maps, geotechnical and geologic data, as-built bridge drawings, stereoscopic aerial photographs, fault maps, and preliminary plans for the project; performance of a geologic reconnaissance of the site, including the observation and mapping of geologic conditions and the evaluation of possible geologic hazards which may impact the proposed project; performance of a limited subsurface evaluation consisting of the excavating, logging, and sampling of exploratory hand-auger borings to evaluate the subsurface soils; performance of geotechnical laboratory testing that included an evaluation of in-situ moisture content and dry density, sieve analysis, shear strength, and soil corrosivity; compilation and analysis of the data obtained; and preparation of a report presenting our findings, conclusions, and recommendations for design and construction of the project.



Reference: Danson Kelii, San Diego County Bicycle Coalition, (909) 806-8000

Coastal Rail Trail Roundabout, Carlsbad, California

Ninyo & Moore performed a geotechnical evaluation for the City of Carlsbad Coastal Rail Trail Roundabout project in Carlsbad, California. The roadway and bikeway improvement project site is located in the northern portion of the City of Carlsbad adjacent to the City of Oceanside. The improvements extend north and south from the intersection of Carlsbad Boulevard and State Street. The project included construction of a roundabout at the intersection of Carlsbad Boulevard and State Street, and improvements to the roadway, bikeways, and sidewalks along the roadway alignments within Carlsbad. A 10-foot-wide bike lane was constructed along the west side of Carlsbad Boulevard to Eaton Street in Oceanside. Ninyo & Moore's services included review of background data including topographic maps, geologic data, stereoscopic aerial photographs, and fault maps; performance of a geologic reconnaissance of the site including the observation and mapping of geologic conditions and the evaluation of possible geologic hazards which may impact the project; performance of subsurface exploration consisting of drilling one boring to evaluate the subsurface conditions; performance of geotechnical laboratory testing on selected soil samples to evaluate



SECTION THREE PROJECT TEAM QUALIFICATIONS AND REFERENCES

design parameters; compilation and analysis of the data obtained; and preparation of a geotechnical design and data report presenting our findings and conclusions regarding the site. The report also included geotechnical recommendations for the design and earthwork construction of the project.



Reference: Sherri Howard, City of Carlsbad, (760) 602-2756

Ted Williams Parkway Pedestrian Bridge Project, San Diego, California

Ninyo & Moore performed a geotechnical evaluation of a temporary backcut and soil nail wall that were proposed for the Ted Williams Parkway Pedestrian Bridge project in San Diego, California. The project involves a pedestrian bridge constructed over Ted Williams Parkway (connecting the northern and southern portions of Shoal Creek Drive) as well as a southerly approach for the pedestrian bridge. The construction of the approach for the bridge included excavation of approximately 18 feet of materials comprising the toe of the existing graded slope. Ninyo & Moore's services included review of background information including geotechnical reports, geologic maps, and stereoscopic aerial photographs; construction of cross sections that depicted the temporary slope configuration utilizing topographic information provided in the project plans, along with information presented in geotechnical documents and other information pertinent to the site; and performance of limited geotechnical laboratory testing on selected samples to evaluate their pertinent engineering properties, which included maximum dry density and optimum moisture content determinations, along with direct shear testing of remolded samples. Our services also included performance of quantitative analyses of the stability of the temporary slope configuration; and preparation of a report presenting our findings and conclusions regarding the temporary slope and geotechnical recommendations as they pertain to the design and construction of the soil nail wall.



Reference: Mike Henderson, KTA Construction, (619) 562-9464

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 14

Date: January 13, 2016

TO: Honorable Mayor and City Council
FROM: Jay Petrek, Director of Community Development
SUBJECT: Local Register Designation of the Property at 225 East Fourth Avenue (Case HP 15-0004).
APPLICANTS: Kelly G. Jette

RECOMMENDATION:

The Community Development Department recommends that the City Council:

1. Approve listing the structures on the City's Local Register by adopting Resolution No. 2016-02.
2. Approve the CEQA Exemption.

ENVIRONMENTAL STATUS:

In compliance with CEQA Section 15331, "Historical Resource Restoration/ Rehabilitation," a Notice of Exemption was prepared on December 2, 2015.

FISCAL ANALYSIS:

Approval of Local Register Designation would have no substantive fiscal impact to the City.

GENERAL PLAN ANALYSIS:

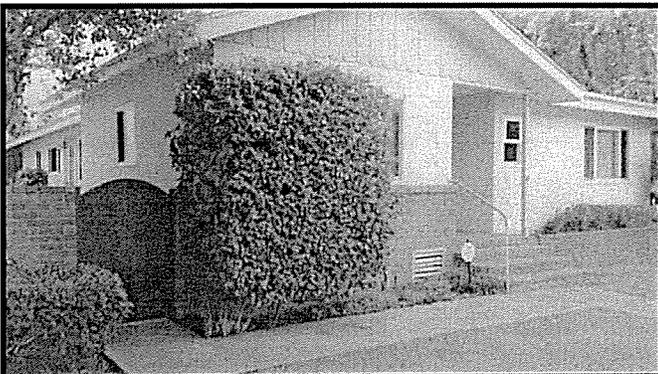
The property is located within the Downtown Specific Plan (SPA-9) land use category of the General Plan. Historic & Cultural Resources Policy VII.G encourages the preservation of buildings and areas with special and recognized historic and architectural value. Chapter IV of the Downtown Specific Plan provides further standards and guidelines requiring the preservation of all historic structures found within each of its Districts.

ZONING:

The property is located within the Southern Gateway (SG) district of the Downtown Specific Plan (SPA-9). It is also within the Downtown Specific Plan's Adaptive Reuse overlay.

HISTORIC PRESERVATION COMMISSION RECOMMENDATION:

The Historic Preservation Commission (HPC) voted 4-1-0 on December 10, 2015 to recommend approval of listing the subject property on the City's Local Register of Historic Places. Commissioner Rea, the only dissenting vote, suggested that the vinyl windows changed to a more period-appropriate style, a condition with which the other commissioners disagreed.



BACKGROUND:

The subject property, addressed as 225 East 4th Avenue (APN 233-182-0400), is on a 0.16 acre lot located on the south side of East 4th Avenue between South Kalmia Street and South Juniper Street. The property includes a 1954 Mid-Century residence which has served since its construction as the parsonage for the First Methodist Episcopal Church on the northwest corner of South Kalmia Street and East 4th Avenue. The church was one of

the first church congregations in the City of Escondido. The new owner desires to to preserve the residence and to convert it into a law office in accordance with the Adaptive Reuse overlay. Listing it on the Local Register will also allow the owner to rely on the Secretary of Interior Standards when preparing plans and applying for building permits.

ANALYSIS:

Escondido Historical/Cultural Resources Survey:

The applicant has conducted the required historic research and data collection, and has provided the information on the required State Department of Parks and Recreation forms (see attached). The information provided by the applicant includes historical background and descriptive analysis of the architectural style and is adequate for the purpose of determining the appropriateness of adding the structure to the Local Register.

Local Register Listing:

Requests for listing resources on the Local Register require that both the Historic Preservation Commission and the City Council conduct a public hearing to consider the request and receive property owner consent. Historic resources are evaluated against seven criteria and must meet at least two of the seven. Staff recommends listing the property on the Local Register of Historic Places because it meets three of the seven criteria based on the following criteria found in Article 40, Sec. 33-794 of the Zoning Code:

1. Escondido historical resources that are strongly identified with a person or persons who significantly contributed to the culture, history, prehistory, or development of the City of Escondido, region, state or nation.
 - *The residence has served as the Methodist parsonage and has been important to the City's history.*
5. Escondido historical resources that are fifty (50) years old or have achieved historical significance within the past fifty (50) years.
 - *The structure was built in 1954 and is currently 61 years old.*
6. Escondido historical resources that are an important key focal point in the visual quality or character of a neighborhood, street, area or district.
 - *The existing early Mid-Century residence is midblock on the same side of the street with other adaptively reused older homes. Its loss would create a gap in this fabric of residences on the south side of 4th Avenue.*

CONCLUSION:

By designating the structure on the Local Register, the City Council will be furthering the preservation of historic resources associated with the history of Escondido. NOTE: The owner is not requesting Mills Act approval at this time, only Local Register listing of the property.

Respectfully submitted,



Jay Petrek
Director of Community Development



Paul K. Bingham
Assistant Planner II

**HISTORIC PRESERVATION
COMMISSION**

**Agenda Item No.: G.1
Date: December 10, 2015**

TO: Historic Preservation Commission

FROM: Paul Bingham, Assistant Planner II

REQUESTS: Residence addressed as 225 East 4th Avenue (case number HP15-0004)

1. Local Register listing request,
2. Consideration of the proposed CEQA exemption

RECOMMENDATION: Forward recommendations of approval to the City Council

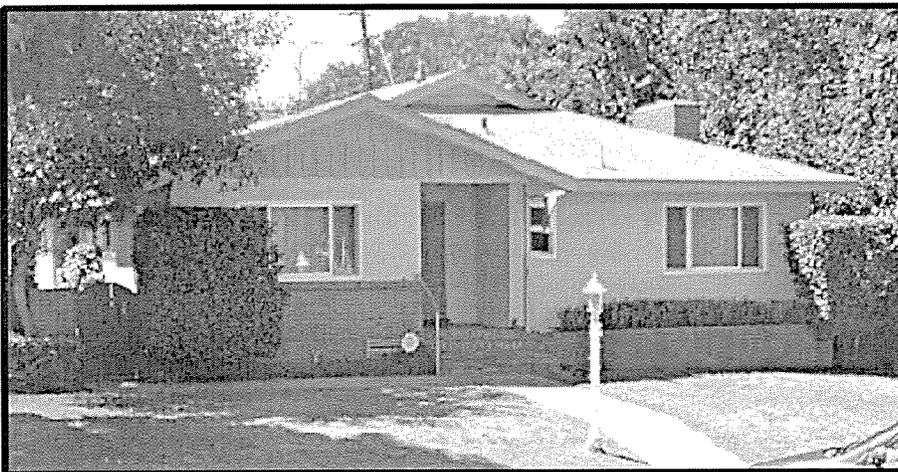
BACKGROUND:

City of Escondido Historical/Cultural Resources Survey

A City of Escondido Historical/Cultural Resources Survey was completed in 1990 (Agis, May 1990). Close to 1,000 resources were inventoried in the survey for their significance. The Survey of 1990 was conducted in compliance with procedures established by the U.S. Department of the Interior, National Park Service and the State Office of Historic Preservation. A Historical/Cultural Resources Survey is a collection of information that identifies documents and describes the historical resources in the community. The survey also associates the resources with historical events and/or people. Among other preservation programs, the survey serves as the basis for historic preservation plans. The survey also fulfills a higher level of historic nomination requirements (Local, State and National), it allows for the applicability of Historic Building Code in regard to rehabilitation/renovation of structures, and justifies local, state and federal funding assistance.

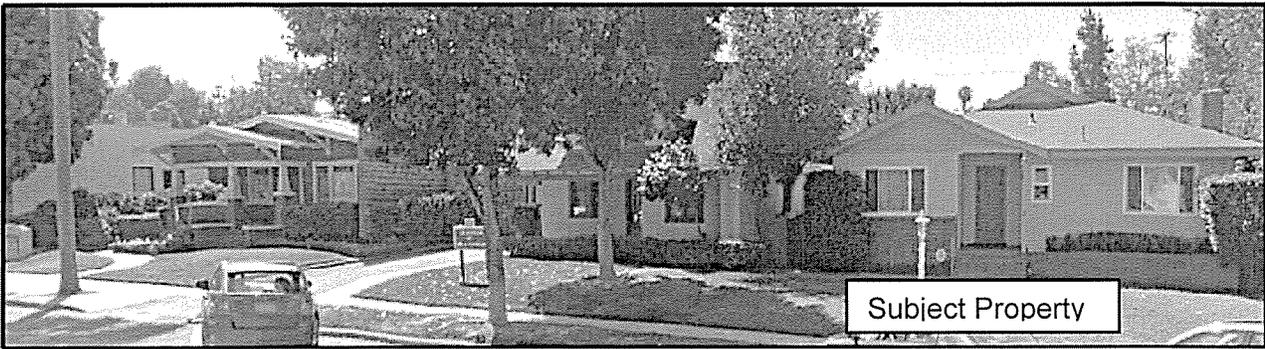
Local Register of Historic Places Listing

The Historic Preservation Ordinance No. 2000-23, Section 33-794-5 identifies a process and criteria for listing historic structures on the City's Local Register. Requests for listing on the Local Register require that both the Historic Preservation Commission and the City Council conduct a public hearing to consider the request. The historic resource is evaluated against seven criteria and must meet at least two of the seven.



The subject property at 225 East 4th Avenue (APN 233-182-0400) consists of .16 acre with a single story early Mid-Century residence built in 1954. A matching garage in the rear off the alley was connected to the main house by a bedroom and bath addition a few years later. Aside from this and the replacement of some original front windows, no other major structural or exterior design alterations are evident. The property does

not appear in the City's 2001 Historic Survey, because the structures missed the search threshold by four years. Since its construction, the property has served as a parsonage for the First Methodist Episcopal Church half a block to the west. This church was one of the very first church congregations in the City. The



property is within the Southern Gateway district of the Downtown Specific Plan and the Adaptive Reuse overlay. It is the desire of the owner to adaptively reuse the residence as an office similar to the two neighboring properties to the east and others across the street on this block. By including this property on the City's Local Register, the improvements necessary for adaptive reuse can rely on the Secretary of Interior Standards for historic properties thus avoiding the substantial design-altering exterior changes otherwise required to meet modern building codes for access and egress. Staff believes this will help better preserve the historic integrity of the residence.

ANALYSIS

Escondido Historical/Cultural Resources Survey

The applicant has conducted the required historic research and data collection, and has provided the information on the required format, State Department of Parks and Recreation forms (see attached). The information provided by the applicant, includes historical background and descriptive analysis of the architectural style, is adequate for the purpose of determining the appropriateness of adding the structures to the survey. The applicant is not requesting a Mills Act contract.

Local Register of Historic Places Listing

This request by the current owner, Kelly Jette, is to consider placing this resource on the Local Register.

The residence meets the following three of seven criteria (*note that only two are required for Local Register listing approval*):

1. Escondido historical resources that are strongly identified with a person or persons who significantly contributed to the culture, history, prehistory, or development of the City of Escondido, region, state or nation.

The residence has served as the Methodist parsonage and has been important to the City's history.

5. Escondido historical resources that are fifty (50) years old or have achieved historical significance within the past fifty (50) years.

The structure was built circa 1954 and is currently 61 years old

6. Escondido historical resources that are an important key focal point in the visual quality or character of a neighborhood, street, area or district.

The existing early Mid-Century residence is midblock on the same side of the street with other adaptively reused older homes. Its loss would create a gap in this fabric of residences on the south side of 4th Avenue.

Respectfully Submitted,

Paul K. Bingham
Assistant Planner II



CITY OF ESCONDIDO
 Planning Division
 201 North Broadway
 Escondido, CA 92025-2798
 (760) 839-4671

FOR INTERNAL USE ONLY	
Case No.:	<u>HP 15 - 0004</u>
Date Received:	<u>12/2/15</u>
Received By:	<u>P.B.</u>
Fees Received:	<u>N/A</u>
Date Approved:	_____
Application:	<input type="checkbox"/> Incomplete
	<input checked="" type="checkbox"/> Complete _____

ESCONDIDO HISTORIC DESIGNATION APPLICATION

(Check one) Historic Landmark Local Register

Applicant: Kelly G. Jette

Address: 3375 Vista Norte

City/State/Zip: Escondido, CA 92025

Phone No.: (H) 760-213-4048 (W) 760-489-6055

Present Property Owner: Christopher and Kelly Jette

Address: 3375 Vista Norte

City/State/Zip: Escondido, CA 92025

Phone No.: (H) 760-213-4048 (W) 760-489-6055

Address of Site/Structure: 225 E. 4th Ave. Escondido

Assessor Parcel No.: 223-182-04-00

Present Land Use: Residence

General Plan Designation: Downtown Specific Plan

Tier/Neighborhood: SG/ Adaptive Reuse Area

Common Name/
 Historic Name: First Methodist Episcopal Church Pars

Architural Style: Mid Century Ranch

Zoning: SG/ Professional Office permitted

Related Case File: _____

Put answers to questions 1-3 on the reverse side of this form.

1. Please describe historical aspects of the site or structure as well as any other significant factors which may determine this as an Historic Resource (i.e., special aesthetics; cultural, architectural, or engineering factors; and any dates, events, or persons associated with the site or structure).
2. Has the site or structure been altered in any way from its original design? Explain.
3. Are there any known threats to the site or structure? (i.e., private development, zoning, vandalism, public works, structural damage, etc.)

SUBMITTAL REQUIREMENTS:

- Complete legal description of property
- List of past and present occupants/owners
- 1 copy of site plan
- Photos of exterior of structure/site
- Evidence that the property owner has consented to designating the Historic/Cultural Resource as an Historic Landmark/Local Register Property
- Chain of Title
- State of California Department of Parks and Recreation Forms 523a & b (attached)

[Signature] 12/1/15
 Applicant Signature (Date)

[Signature] 12/1/15
 Property Owner Signature (Date)

[Signature] 12/1/15

1. The residence was constructed in 1954 by the First Methodist Episcopal Church as the parsonage for the pastor and his family. A bedroom and bath were added some time later. The style is mid century ranch and was the first structure on the property. The building is significant in its connection to the First Methodist Episcopal Church, one of the first church congregations in Escondido. The residence has been continually owned by the church until the recent purchase by the current owners.

It is the hope of the current owner to maintain the visual connection of the residence to the street scape and adaptively reuse the building to offices.

The building meets #1 and #5 of the criteria for granting Local Registry status.

#1. Building is strongly identified with persons who significantly contributed to the culture of the City of Escondido

#2 The building is more than 50 years old.

2. The residence was constructed in 1954. A bedroom and bath addition occurred later.

3. No known threats.

State of California The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #
 HRI #
 Trinomial
 NRHP Status Code

Other
 Review Code

Reviewer

Date

Listings

Page 1 of 4 *Resource Name or #: (Assigned by recorder) First Methodist Episcopal Church Parsonage

P1. Other Identifier: _____

*P2. Location: Not for Publication Unrestricted

*a. County San Diego _____ and (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad _____ Date _____ T ____; R ____; ____ of ____ of Sec ____; ____ B.M.

c. Address 225 E. 4th Ave _____ City Escondido CA _____ Zip 92025 _____

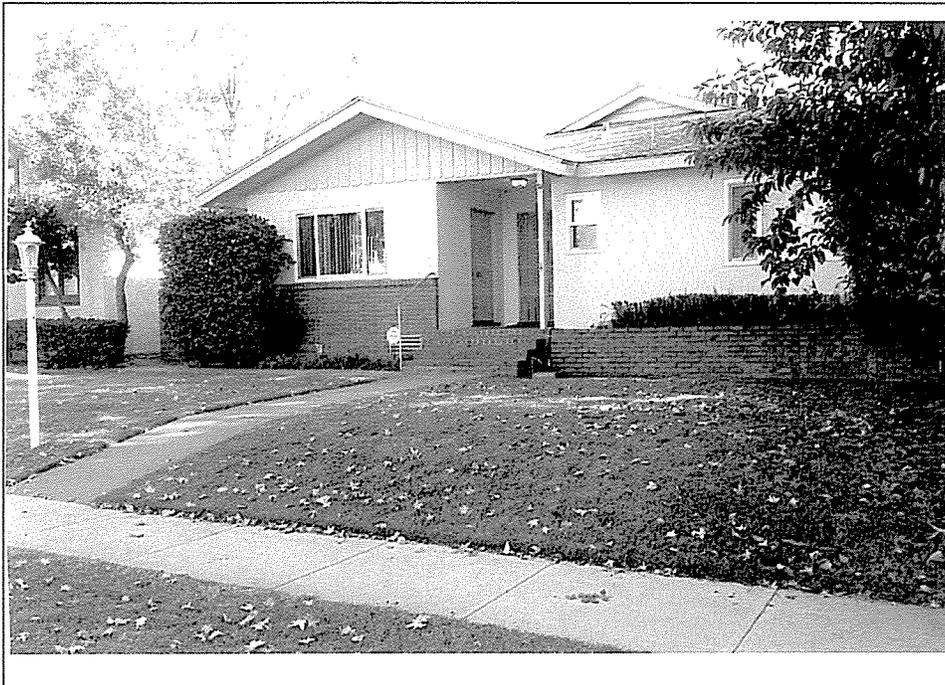
d. UTM: (Give more than one for large and/or linear resources) Zone __, __ mE/ __ mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, decimal degrees, etc., as appropriate)
 AP# 233-182-04-00

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)
 The First Methodist Episcopal Church Parsonage was constructed on the vacant lot in 1954.

The residence is a mid 20th century residence constructed of simple wood frame for the floor, walls and roof. An addition for bedroom and bath followed the original construction at an unknown time but blends in to the details of the building. The exterior of the one story house is stucco with a red brick wainscot on the street side elevation. Other brick features occur in the fireplace construction and fence details. A matching red color occurs on the street side sidewalk that leads from the street to the front door. The slope of the roof is typical of other houses of its age and includes both hip and gable details. The roofing may not be original but is currently composition shingle roofing. The roof eaves are enclosed below with stucco and a vertical wood siding with clipped ends (dog ears) close in the gable ends of the roof. Although the original windows have been replaced, the building still evokes the residential qualities of its time. The building is in

very good condition retaining nearly all of the original simple details. Of note is the ministers' office that has access directly from the front porch. This design feature is unique to the use of the residence as a part of the church community.



*P3b. Resource Attributes: (List attributes and codes) _____ HP2

*P4. Resources Present: Building
 Structure Object Site District
 Element of District Other (Isolates, etc.)

P5b. Description of Photo: (view, date, accession #) Street front 12-1-2015

*P6. Date Constructed/Age and Source: Historic Prehistoric
 Both

Constructed in 1954, Newspaper article

*P7. Owner and Address:

Christopher M. and Kelly G. Jette
3375 Vista Norte
Escondido, CA 92025

*P8. Recorded by: (Name, affiliation, and address) Robert A. McQuead Architect,
227 S. Maple St. Escondido, CA 92025

PRIMARY RECORD

HRI #

Trinomial

NRHP Status Code

Other
Review Code

Reviewer

Date

Listings

Page 2 of 4 *Resource Name or #: (Assigned by recorder) First Methodist Episcopal Church Parsonage _____

P1. Other Identifier: _____

*P9. Date Recorded: 12-1-2015

*P10. Survey Type: (Describe)

Reconnaissance survey

*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

None

*Attachments: NONE Location Map Continuation Sheet Building, Structure, and Object Record

Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record

Artifact Record Photograph Record Other (List): _____

State of California & The Resources Agency Primary #
 DEPARTMENT OF PARKS AND RECREATION HRI#
BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Name or # (Assigned by recorder) First Methodist Episcopal Church, Parsonage

*NRHP Status Code _____

Page 3 of 4

B1. Historic Name: First Methodist Episcopal Church Parsonage

B2. Common Name: Same

B3. Original Use: Residence B4. Present Use: Vacant

*B5. Architectural Style: Mid Century Ranch

*B6. Construction History: (Construction date, alterations, and date of alterations)

Constructed 1954

Bedroom and bath addition, date unknown

*B7. Moved? No Yes Unknown Date: _____ Original Location: _____

*B8. Related Features:

B9a. Architect: None b. Builder: Unknown

*B10. Significance: Theme Mid 20th century Area central residential

Period of Significance Post WWII population growth Property Type Single Family Residence

Applicable Criteria _____ (Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

At its beginning, the "Escondido Land and Town Co." developers set aside parcels of land for church construction. The First Methodist Episcopal Church was one of the original churches represented in the valley.

As the Escondido population grew in the post WWII years so did the local church membership. In order to provide housing for the minister and his family, the congregation set out to construct a new house within close proximity of the church. The house was constructed on the vacant lot in 1954.

The First Methodist Episcopal Church Parsonage is a mid 20th century residence constructed in the typical wood frame methods of the mid 20th century. The exterior of the one story house is stucco with a red brick wainscot on the street side elevation. Although the original windows have been replaced, the building still evokes the residential qualities of its time.

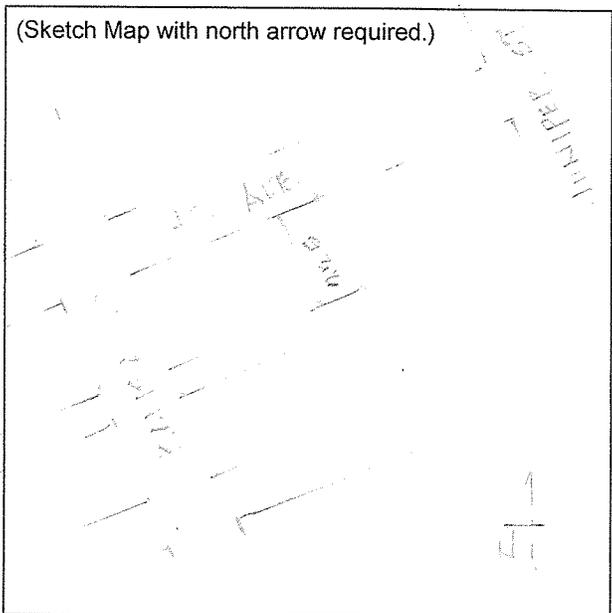
Although tied to individuals who significantly contributed to the culture of the City of Escondido, it does not appear to meet National Register Criteria.

B11. Additional Resource Attributes: (List attributes and codes) HP2

Single Family Residence

*B12. References:

(This space reserved for official comments.)



BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Name or # (Assigned by recorder) First Methodist Episcopal Church, Parsonage

*NRHP Status Code _____

Page 4 of 4

County Assessor Records
Newspaper Article

B13. Remarks:

The current owner hopes to adaptively reuse the building for professional offices.

*B14. Evaluator: Robert A. McQuead Architect
227 S. Maple Street
Escondido, CA 92025

*Date of Evaluation: 12-1-2015 _____

(Sketch Map with north arrow required.)

(This space reserved for official comments.)

225 East 4th Ave.

AP# 223-182-04-00

Chain of Title

Sept. 28, 2015 First United Methodist Church of Escondido
to Christopher and Kelly Jette.

Feb. 4, 1951 Elmer Jacob
To United Methodist Church of Escondido

Jan. 16, 1939 Hooper to Jacob

May 22, 1922 Spear to Hooper

Missing.....

Dec. 17, 1887 Escondido Land and Town Co.
To O.N. Sanford

The Daily Times

From Rancho to City —

Old Church, Built In 1886, Serves Two Congregations

By BOB BUSCH

In the Spring of 1886 a small company of people met in the Duke Symington Furniture Store, located on South Lime (now Broadway) to discuss plans to build a church, to be called the First Methodist Episcopal Church of Escondido. Several meetings were held at this location before the plans were formulated.

Construction of the church began in the latter part of '86, and continued thru most of 1887. The Escondido Land and Town Company donated the adobe bricks for the church, while the University of Southern California, which had a branch in Escondido at that time, helped to finance it.

In the October 29, 1886 issue of a San Diego paper there was an article which read: "Rev. A. M. Ogborn, pastor of the Methodist Church at Escondido, has been in town for a few days purchasing building materials for the fine new church to be erected at Escondido soon. The church will be one of the most costly and elegant which the Methodist of this district own."

Sermon For 'Young Men'

We find in the Escondido Times on October 27, 1887, an article reading: "On next Sunday evening, Rev. J. N. Turrentine, pastor of the First Methodist Episcopal Church, will preach a sermon especially adapted to young men. Subject: "Is the Young Man Safe?" The young men of the place are cordially invited to attend. Services will be held in the new church building, located on the corner of Grand Avenue and Curve (Ivy) Street.

"The M. E. Church Society is now making arrangements looking to the erection of a parsonage. The church is now in a healthy condition and is presided over by a gentleman who has both the ability and disposition to build up the cause of Christianity."

Pastors Who Served

The Methodists occupied this church building until 1921, and pastors to serve from 1886 to 1921 included: 1886, A. M. Ogborn; 1887, J. N. Turrentine; 1888, Fredrick Miller; 1889, A. P. Morrison; 1891, J. A. Wachob;

1894, John Nicholson; 1896, William Pittinger; 1898, H. S. Munger; 1902, C. H. Lawrence; 1907, L. O. Lloyd; 1908, George Coking; 1909, J. E. Cope; 1910, Alexander Hardie; 1913, A. J. McKenzie; and 1917, R. E. Wright.

It was while Rev. Wright was pastor that the Methodists erected a \$50,000 church on the corner of Fourth and Kalmia. They have occupied that church building since 1921. Rev. Clell C. Gray is now pastor of the First Methodist Church.

Lutheran Charter Members

On May 25, 1919, Lutheranism came to Escondido. It was on this date that seven members signed a constitution of the organization known as Grace Evangelical Lutheran Church. The charter members were William Luchau, Julius Knappe, F. W. E. Huefner, Frank Singer, H. V. Hoesten, August Junge and Robert Bergander. The first president and treasurer of the congregation was William Luchau.

Rev. W. F. F. Hoffmann was inducted to the office of pastor of this church in 1920 and services were held in the Seventh-Day Adventist Church. The small group on July 12, 1920, resolved to purchase the building which the Methodists then held.

Henry Moennich of Olive, California, loaned the group the entire sum needed for the purchase of this building. The total was \$2,500. Mr. Moennich can-

celled his note as a gift to the congregation a year later.

Altar Still Used

August Junge built an altar for the church and it was installed by the time of the dedication service. This altar is still in use at the Lutheran's present building at Thirteenth and Redwood.

The Lutheran group dedicated this building to the service of the Triune God on the first Sunday in September in 1921.

Rev. Hoffmann served the congregation until July, 1930. During his vacancy, Rev. K. Kippenberg of San Diego ministered.

On December of the same year, Rev. Louis H. Jagels of Deshler, Nebraska, was called. He was installed in his office on January 11, 1931. He served this church until July of 1954, when he resigned due to ill health.

Great Changes Made

In January of 1954 great changes were made on this old building, when the Lutherans moved into their new church building. The old tower, which had been on the building since it was erected 67 years ago, was taken down and the building became known as Ivy Hall, home of Georgia and David's School of the Dance.

This building is one of the few old landmarks left in Escondido today, and is one of the most loved buildings in the community. It has served many in the past, as it will probably serve many in the future.

PRELIMINARY REPORT
YOUR REFERENCE: 103-036370 (RB)

Fidelity National Title Company
ORDER NO.: 00052184-992-SD1-DK

EXHIBIT A
LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ESCONDIDO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 13, IN BLOCK 100 OF ESCONDIDO ADDITION, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 336, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 10, 1886.

APN: 233-182-04-00

DOC# 2015-0510027



Sep 28, 2015 03:26 PM

OFFICIAL RECORDS
Ernest J. Dronenburg, Jr.,
SAN DIEGO COUNTY RECORDER

FEES: \$516.00
PCOR: YES

PAGES: 3

RECORDING REQUESTED BY
Fidelity National Title Company SD

MAIL TAX STATEMENT
AND WHEN RECORDED MAIL DOCUMENT TO:
Christopher M Jette and Kelly G Jette
225 East 4th Avenue
Escondido, CA 92025

Space Above This Line for Recorder's Use Only

A.P.N.: 223-182-04-00

File No.: 103-036370 (RB)

Title Order No.: 52184-DK

GRANT DEED

The Undersigned Grantor(s) Declare(s): DOCUMENTARY TRANSFER TAX \$495.00; CITY TRANSFER TAX \$;

- computed on the consideration or full value of property conveyed, OR
- computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
- unincorporated area; City of **Escondido**, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **First United Methodist Church of Escondido corporation**

Marc

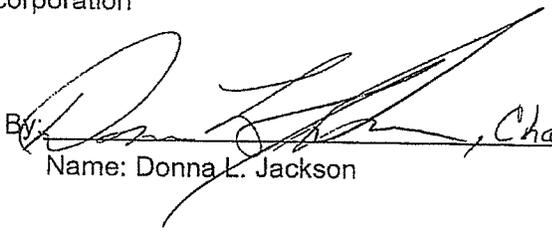
hereby GRANTS to **Christopher M Jette and Kelly Jette, husband and wife as community property with right of survivorship**

the following described property in the City of **Escondido**, County of **San Diego**, State of **California**:

**LOT 13 IN BLOCK 100 OF
ALL IN ESCONDIDO ADDITION, ACCORDING TO MAP THEREOF NO 336, FILED IN THE
OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, JULY 10, 1886.**

Dated: September 01, 2015

First United Methodist Church of Escondido, a corporation

By:  *Donna L. Jackson*, *Chair of Trustees*
Name: Donna L. Jackson



CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
Attn: Chief Deputy Recorder Clerk
1600 Pacific Highway, Room 260
San Diego, CA 92101

From: City of Escondido
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: HP 15-0004

Project Location - specific: Addressed as 225 East 4th Avenue (APN 233-182-0400), located on the south side of East 4th Avenue midblock between South Kalmia Street and South Juniper Street.

Project Location - City: Escondido, **Project Location - County:** San Diego

Description of Project:

To approve listing the .16-acre subject property on the City's Local Register of Historic Places in the Southern Gateway district (SG), located in the Downtown Specific Plan (SPA-9) land use designation of the General Plan.

Name of Public Agency Approving Project: City of Escondido

Name(s) of Person or Agency Carrying Out Project:

Names: Christopher and Kelly Jette
Address: 225 East 4th Avenue, Escondido, CA 92025

Telephone: (760) 489-6055

Private entity School district Local public agency State agency Other special district

Exempt Status:

Categorical Exemption: Section 15331, Class 31. "Historic Resource Restoration/Rehabilitation

Reasons why project is exempt:

1. The project is within the Southern Gateway district (SG), located in the Downtown Specific Plan (SPA-9) land use designation of the General Plan and no variances are required.
2. The project will be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties with guidelines for preserving, rehabilitating, restoring and reconstructing historic buildings.
3. The project will not be limited by the factors in section 15300.2 and will not adversely change the significance of a historical resource.

Lead Agency Contact Person: Paul K. Bingham

Area Code/Telephone/Extension (760) 839-4306

Signature: Paul K. Bingham
Assistant Planner

12/2/15
Date

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant

RESOLUTION NO. 2016-02

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
LISTING THE STRUCTURES ON THE
PROPERTY ADDRESSED AS 225 EAST
FOURTH AVENUE ON THE CITY'S LOCAL
REGISTER OF HISTORIC PLACES

(Case No. HP-15-0004)

WHEREAS, the City's Historic Resources Ordinance identifies seven criteria for properties to be listed on the City's Local Register of Historic Places; and

WHEREAS, properties eligible for listing on the Local Register must meet at least two of the seven criteria identified in the Ordinance; and

WHEREAS, the property located at 225 East Fourth Avenue (APN 233-182-0400) has been evaluated against the criteria and has been found to be eligible for listing on the Local Register; and

WHEREAS, this property was recommended by the Historic Preservation Commission to be listed in the Local Register of Historic Resources on December 10, 2015; and

WHEREAS, the City Council desires at this time and deems it to be in the best public interest to list the historic residence located at 225 East Fourth Avenue on the City's Local Register of Historic Places, as recommended by the Historic Preservation Commission on December 10, 2015.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the Mayor and City Clerk are hereby authorized to list the property located at 225 East Fourth Avenue on the City's Local Register of Historic Places.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 15
Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council

FROM: Jay Petrek, Director of Community Development
Craig Carter, Chief of Police

SUBJECT: Ordinance 2016-01 Amending Chapter 33 and Deleting Chapter 16F of the Escondido Municipal Code Pertaining to Commercial Medical Cannabis (Marijuana) Land Uses and Businesses (AZ 15-0004).

STAFF RECOMMENDATION:

It is requested that Council introduce Ordinance No. 2016-01 to amend Chapter 33 (Zoning Code), Article 57, to explicitly prohibit the cultivation and delivery of medical cannabis (marijuana), to maintain the prohibition of medical marijuana dispensaries in the City of Escondido and to delete Escondido Municipal Code Chapter 16F (Medical Marijuana Dispensaries).

PLANNING COMMISSION RECOMMENDATION:

On December 8, 2015, the Planning Commission voted 5-0 (Commissioner McQuead absent, one vacancy) to recommend approval of an amendment to Article 57 of the Zoning Code to establish land use regulations prohibiting commercial medical marijuana activities and all marijuana cultivation.

PROJECT DESCRIPTION:

A proposed amendment to amend Chapter 33 (Article 57 of the Zoning Code) to explicitly prohibit the cultivation and delivery of medical cannabis (marijuana), to maintain the prohibition of medical marijuana dispensaries in the City of Escondido and to delete Escondido Municipal Code Chapter 16F (Medical Marijuana Dispensaries).

LOCATION:

Citywide

FISCAL ANALYSIS:

None

GENERAL PLAN ANALYSIS:

The proposed amendment has been developed in accordance with General Plan Code Enforcement Policy 4.2 which notes the City shall enforce state and local health and safety statutes and codes to ensure the health and safety of the general public. The proposed amendment would explicitly establish local regulations for commercial medical marijuana businesses in a manner that is consistent with the Medical Marijuana Regulation and Safety Act.

ENVIRONMENTAL REVIEW:

A Notice of Exemption will be issued following approval of the code amendment, in accordance with CEQA Section 15061(b)(3), "General Rule." The project will have no impact on fish and wildlife resources since no sensitive or protected habitat would be impacted by the proposed Amendment to the Municipal Code because no physical improvements are involved.

PREVIOUS ACTION:

On August 19, 2009, the City Council adopted Ordinance 2009-22 (later codified as Chapter 16F of the Municipal Code) that rendered it unlawful for any person or entity to own, operate or participate in any manner or capacity, in any medical marijuana dispensary in the City of Escondido.

BACKGROUND:

Federal law continues to prohibit marijuana, which is classified as a Schedule I drug, meaning it has a high potential for abuse and no currently accepted medical use in treatment in the United States. The White House's Office of National Drug Control policy is as follows:

Marijuana is a topic of significant public discourse in the United States, and while many are familiar with the discussions, it is not always easy to find the latest, research-based information on marijuana to answer to the common questions about its health effects, or the differences between Federal and state laws concerning the drug. Confusing messages being presented by popular culture, media, proponents of "medical" marijuana, and political campaigns to legalize all marijuana use perpetuate the false notion that marijuana is harmless. This significantly diminishes efforts to keep our young people drug free and hampers the struggle of those recovering from substance use disorders.
(Attachment A)

In 1996, California voters approved via referendum the Compassionate Use Act ("CUA") which legalized medical marijuana and decriminalized marijuana cultivation and possession by a patient or a qualified primary caregiver. Although the CUA intended to aid seriously ill patients, in practice marijuana advocates have exploited the regulatory challenges imposed by the CUA and subsequent legislation to provide marijuana to many who are not seriously ill. The California Medical Association has stated:

Medical cannabis may be effective for treatment of nausea, anorexia, pain and other conditions (i.e. spasticity), but more clinical research is needed to update practitioners regarding specific indications, dosing, and the management of side effects. Legislative decision-making is a poor alternative to scientific analysis in deciding whether or not cannabis is an appropriate pharmaceutical agent. Additional scientific and clinical research is needed to evaluate cannabinoids as medical agents. Regulation of dispensaries and physicians who recommend medical cannabis remains a long term goal to prevent the use of cannabis for virtually any and all complaints. The professional ethic of health care providers should be implemented through regulatory oversight to optimize patient safety and wellbeing and, potentially, to prevent the diversion of medical cannabis to recreational users. (Attachment B)

In 2004, the State of California adopted Senate Bill 420, the Medical Marijuana Program Act ("MMPA"), codified as, Health & Safety Code section 11362. 7, *et seq.*, which clarifies that the Compassionate Use Act ("CUA") allows local jurisdictions to adopt and enforce rules consistent with the MMPA. The California Supreme Court, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal. 4th 729 (2013) held that "neither the CUA nor the MMP[A] expressly or impliedly preempts the authority of California cities and counties, under their traditional land use and police powers, to allow, restrict, limit or entirely exclude facilities that distribute medical marijuana.

At the conclusion of the 2015 legislative session, Governor Brown signed the Medical Marijuana Regulation and Safety Act ("MMRSA") into law. Comprised of three separate bills (AB 266, AB 243, and SB 643) the MMRSA establishes a regulatory and licensing structure for medical marijuana cultivation and medical marijuana businesses which includes a dual licensing structure that will require a state license and a local license or permit. The MMRSA provides a substantial reform of California's medical marijuana program as defined by the Compassionate Use Act of 1996 (Proposition 215) and SB 420 (Chapter 875, Statutes of 2003). The MMRSA received support from the League of California Cities and the California Police Chiefs Association.

AB 266 provides the framework for a comprehensive regulatory structure that upholds the power of local ordinances based on the constitutional police power that has been vested in local governments. The law includes the essential approach of both state and local licensing. Without both, a medical marijuana business will not be authorized to operate in California. Though no timeframe is given, the state has indicated a January 1, 2018, target date for issuing the new state licenses. Eventually, AB 266 phases out the existing model of marijuana cooperatives and collectives.

AB 243 creates a Medical Cannabis Cultivation Program within the Department of Food and Agriculture (DFA) to facilitate the licensing and regulation of indoor and outdoor cultivation sites. It directs the Department of Pesticide Regulation (DPR) to develop standards and maximum tolerances for pesticides and other foreign object residue related to marijuana cultivation. The Department of Public Health will assume responsibility for developing standards for production and labelling of edible medical cannabis products.

Senate Bill 643 requires the establishment of a critical component of the state regulatory structure, a track-and-trace, or seed-to-sale tracking program enabling accurate tracking of marijuana products throughout the stream of commerce, from cultivation sites to their ultimate retail destination.

With the new legislation, two areas require immediate action from City of Escondido. Despite the overall regulatory scheme that involves dual state and local licensing, the state will become the sole licensing authority for the cultivation of medical marijuana if the City does not expressly prohibit or regulate cannabis cultivation by March 1, 2016. The author of AB 243, and co-author of AB 266, Assemblymember Jim Wood, has sent an open letter to County and City Government officials indicating the March deadline was inadvertent and will be stricken, but this legislative revision might not be complete by March 1, 2016 (Attachment C). Regardless, there is no reason for the City Council to delay action of the proposed ordinance. Secondly, the MMRSA will allow marijuana delivery (sometimes referred to as mobile dispensaries), with a state license, if the City does not expressly ban such uses. The League of California Cities fact sheets titled "What Cities Need to Know about the New Law and Cultivation / Delivery Services," (Attachment D), provide a summary of recommended actions. The League of California Cities has also published a helpful list of Medical Marijuana Regulation & Safety Act Frequently Asked Questions (Attachment E).

A recent survey of San Diego County cities produced the following results.

- City of Vista: Currently prohibits dispensaries and cultivation through zoning ordinances and has considered restating these prohibitions and tackling delivery and the possibility of mobile dispensaries.
- City of San Marcos: Currently prohibits dispensaries, fixed and mobile. Have considered an amendment of the existing prohibition to expressly address cultivation, delivery and associated businesses.
- City of Imperial Beach: Currently prohibits dispensaries. Will be considering a cultivation ordinance in response to the recently adopted Medical Marijuana Regulation and Safety Act.
- National City: Specifically prohibits dispensaries in its Land Use Code. No time line, but they are taking a cultivation ordinance to Planning Commission, then City Council. For some reason, their Planning Commission has indicated an interest in both regulatory and prohibitory ordinances (as opposed to only prohibition) for cultivation, but their City Attorney doesn't know what position the City Council will take.
- City of Chula Vista: Has prohibited dispensaries very clearly, with a position on cultivation being less clear than desirable. They are working on a clean-up of their ordinance to address this (with a ban, not regulation). They are also developing rules to regulate delivery into Chula Vista from San Diego (or any other SD County permitted location).

PLANNING COMMISSION RECOMMENDATION AND SUMMARY:

On December 8, 2015, the Planning Commission voted 5-0 (Commissioner McQuead absent, one vacancy) to recommend approval of the proposed amendment to Article 57 of the Zoning Code to establish land use regulations prohibiting commercial medical marijuana activities and all marijuana

cultivation. The Planning Commission did not consider proposed modifications to Chapter 16 of the Municipal Code because their review authority is limited to the Zoning Code.

The commissioners discussed some of the proposed amendment language and received clarification from staff that the proposed amendment would ban medical marijuana deliveries and dispensaries as well as all marijuana cultivation in Escondido. The commissioners were unanimous in their support of the proposed amendment language.

PUBLIC INPUT:

There was one public speaker at the Planning Commission hearing. Mr. Carlos Bonilla expressed support for the City proactively adopting its own medical marijuana regulations as opposed to having the state regulations imposed due to inaction. He suggested there should be consideration for a more moderate approach where the city could develop regulations for dispensaries as opposed to an outright ban.

Following the Planning Commission hearing, the City Council and staff did receive several emails with attachments opposing staff's recommended action (Attachment F).

ANALYSIS:

The proposed amendments maintain the status quo regarding dispensaries and addresses the MMRSA requirements regarding cultivation and delivery. The placement of the proposed amendments in Article 57 of the Zoning Code (Miscellaneous Use Restrictions) incorporates the dispensary ban passed in 2009 and consolidates all City medical marijuana regulations in one location, thus Escondido Municipal Code Chapter 16F will become superfluous.

Pursuant to Article XI Section 7 of the California Constitution, a city may make and enforce within its limits all police, sanitary and other ordinances that are not in conflict with general laws. In reliance on this constitutional authority, the City has enacted a permissive zoning code. A permissive zoning code permits only those land uses expressly contained in a list of uses allowed in a zoning classification, and thereby prohibits all uses which are not expressly listed. The City's zoning ordinances do not expressly list marijuana-related uses, medical marijuana land uses, or medical marijuana businesses among the listed allowable uses, and therefore such land uses have been and are prohibited throughout the City of Escondido. Permissive zoning systems like that operating in Escondido – with their resulting prohibition on marijuana related uses and medical marijuana land uses or businesses – have been upheld by the California courts, including in *City of Corona v. Naulls*, (2008) 166 Cal.App.4th 418; *City of Claremont v. Kruse*, (2009) 177 Cal.App.4th 1153; and *City of Monterey v. Carnnshimba*, (2013) 215 Cal.App.4th 1068.

The proposed amendments are merely a declaration of existing law and do not expand or reduce the type of land uses that may be established in the City. Escondido's permissive zoning code, including its existing prohibition of medical marijuana land uses and businesses does not conflict with any State law in that:

- a. The Compassionate Use Act expressly anticipates the enactment of additional local legislation by providing, in Health & Safety Code Section 11362.5: "Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes."
- b. The MMPA authorizes local regulation, providing in Health & Safety Code Section 11362.83 that: "Nothing in this article shall prevent a city... from adopting and enforcing ... local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective ... civil and criminal enforcement of local ordinances; [and] other laws consistent with this article."
- c. The Medical Marijuana Regulation and Safety Act, in Section 19315(a), provides: "Nothing in this chapter shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances...."

Medical marijuana dispensaries have flourished and been restricted as Courts have ruled on the limits of local control in the absence of statewide marijuana regulation. A city's retention of land use authority has been repeatedly upheld by appellate courts and the California Supreme Court. Local governments have banned or restricted the size and scope of medical marijuana dispensaries. Justification for bans are often based on the secondary effects of dispensaries on the community such as illegal drug sales near dispensaries, robberies of the typically cash businesses, driving under the influence of drugs, and diversion to unlawful marijuana users such as minors or adults with no medical condition, also known as recreational use. Studies tracking the impact of recent legalization efforts (2009 medical use and 2013 recreational use) in the State of Colorado (See *The Legalization of Marijuana in Colorado, The Impact, Volume 3, September 2015, Rocky Mountain High Intensity Drug Trafficking Area, www.rmhidta.org*) have identified the following:

- National THC potency has risen from an average of 3.96 percent in 1995 to an average of 12.55 percent in 2013. The average potency in Colorado was 17.1 percent.
- Denver has more licensed medical marijuana centers (198) than pharmacies (117).
- In the three years after medical marijuana was commercialized, compared to the three years prior, there was a 46 percent increase in hospitalizations related to marijuana.
- Homelessness increased with the appeal of legal marijuana being a factor.
- The average number of marijuana-related traffic deaths increased 41 percent in the two years recreational marijuana was legalized (2013 – 2014) compared to the medical marijuana commercialization years (2009 – 2012), which was 48 percent higher than pre-commercialization years (2006 – 2008). Marijuana-related traffic deaths were approximately 20 percent of all traffic deaths in 2014 compared to half that (10 percent) just five years ago.
- Drug-related school suspensions/expulsions increased 40 percent from school years 2008/2009 to 2013/2014. The vast majority were for marijuana violations.

- The majority of cities and counties in Colorado have banned recreational marijuana businesses.

The proposed amendments maintain the status quo and more importantly retain local control over the cultivation, distribution, and delivery of medical cannabis. In accordance with current state law, the City's ability to retain local control over cultivation requires action prior to March 1, 2016. If the Council ultimately desires a less restrictive policy, so long as local control is maintained, the Council could modify the policy at a later date. Staff believes maintaining the status quo best protects public safety as the regulations for medical marijuana continue to evolve.

Respectfully Submitted,



Jay Petrek
Director of Community Development



Craig Carter
Chief of Police

Draft Planning Commission
Minutes 12/8/15

Commissioner Romo questioned whether there was a way to block off the parking lots between Buildings 237 and 235 as outlined on the staff report in order to accommodate better student access. Mr. Martin replied in the affirmative.

Commissioner Hale referenced Condition No. 12 and expressed his view that additional time should be allotted for utilization. He then asked if the parking agreements would be recorded.

Cameron Curry, Executive Director for Classical Academy, stated that the parking agreements would be recorded.

Commissioner Hale and Mr. Curry discussed the amount of employees at Classical Academy as well as the class hours.

Commissioner Hale asked if the current parking was enough without overflowing into the City's parking lot. Mr. Curry replied in the affirmative. Mr. Martin noted that the school had worked with the City on safe crossing measures for the students.

Commissioner Romo asked Mr. Curry if he would be in favor of blocking off the parking lots between Buildings 237 and 235. Mr. Curry replied in the affirmative.

Chairman Weber asked Mr. Curry if the 12-month time frame was adequate to get the process started. Mr. Curry replied in the affirmative, noting they planned on beginning the process as soon as they received approval.

Chairman Weber noted that the Fire Department was the entity that recommended the gate between the two parking areas.

ACTION

Moved by Chairman Weber, seconded by Commissioner Spann, to approve staff's recommendation. The motion included directing staff to review closing off through traffic between buildings 235 and 237. Motion carried. Ayes: Spann, Johns, Weber, Romo, and Hale. Noes: None. Abstained: McQuead. (5-0)

3. AMENDMENT TO THE ZONING CODE – AZ 15-0004:

REQUEST: A proposed amendment to Article 57 (Miscellaneous Use Restrictions) of the Escondido Zoning Code to explicitly prohibit the cultivation and delivery of medical marijuana, and maintain the prohibition of medical marijuana dispensaries in the City of Escondido.

PROPERTY SIZE AND LOCATION: Citywide

Bill Martin, Assistant Planning Director, referenced the staff report and noted that staff recommended approval of the amendment to Article 57 (Miscellaneous Use Restrictions) of the Escondido Zoning Code to explicitly prohibit the cultivation and delivery of medical cannabis (marijuana), and maintain the prohibition of medical marijuana dispensaries in the City of Escondido based on the following: 1) The California Medical Association has reported that lucrative clinics with salaried physicians have provided medical cannabis recommendations for potentially undocumented medical conditions and California's approach to medical cannabis has in some cases virtually decriminalized recreational use and has led to excesses. Escondido Police Detectives have reported that most gang members they contact possess medical marijuana cards; 2) Despite the City's ban on medical marijuana dispensaries, the City has experienced repeat attempts to avoid the ban usually involving either an "invitation only" business or a web based delivery service. Both business models have proved difficult to police because of the underground nature of the businesses and the City's current lack of regulations regarding medical marijuana delivery services; and 3) The proposed amendments maintain the status quo and more importantly retain local control over the cultivation, distribution, and delivery of medical cannabis. The City's ability to retain local control over cultivation requires action prior to March 1, 2016. If the City Council ultimately desires a less restrictive policy, so long as local control is maintained, the Council could modify the policy at a later date. Staff believes maintaining the status quo best protects public safety as the regulations for medical marijuana continue to evolve.

Chairman Weber asked Mr. McCarthy to comment on the amendment. Mr. McCarthy provided some background history about the amendment and noted that the subject language was being adopted by most jurisdictions throughout the State.

Chairman Weber asked if the City would still maintain the regulation not to allow any dispensaries. Mr. Martin replied in the affirmative.

Commissioner Romo asked if his understanding was correct that no deliveries, dispensaries, or cultivation would be allowed in Escondido with the proposed amendment. Mr. Martin replied in the affirmative. Mr. McCarthy stated that there were illegally operating dispensaries operating in Escondido at this time.

Carlos Bonilla, Escondido, expressed his view that there should be some middle ground between the State and City's regulation for dispensaries.

Commissioner Hale and Mr. McCarthy discussed the goals of the new laws for dispensaries.

Commissioner Hale expressed his view that as a former law enforcement officer there was no such thing as medical marijuana. He felt the main goal of the proposed code amendment was to protect the City's rights.

ACTION:

Moved by Commissioner Spann, seconded by Commissioner Hale, to approve staff's recommendation. Motion carried unanimously.

CURRENT BUSINESS: None.

ORAL COMMUNATIONS: None.

PLANNING COMMISSIONERS: No comments.

ADJOURNMENT:

Chairman Weber adjourned the meeting at 7:59 p.m. The next meeting was scheduled for January 12, 2015, at 7:00 p.m. in the City Council Chambers, 201 North Broadway, Escondido, California.

Bill Martin, Secretary to the Escondido
Planning Commission

Ty Paulson, Minutes Clerk



CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
Attn: Chief Deputy Recorder Clerk
1600 Pacific Coast Highway, Room 260
San Diego, CA 92101

From: City of Escondido
Planning Division
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: Amendment to the Escondido Municipal Code - AZ 15-0004

Project Location - Specific: The proposed amendment to the Escondido Municipal Code would establish regulations that are effective throughout the entire city.

Project Location - City: Escondido Project Location - County: San Diego

Description of Project: A proposed amendment to Chapter 16 of the Escondido Municipal Code and Article 57 (Miscellaneous Use Restrictions) of the Escondido Zoning Code to explicitly prohibit the cultivation and delivery of medical cannabis (marijuana), and maintain the prohibition of medical marijuana dispensaries in the City of Escondido.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project:

Name: Bill Martin, Assistant Planning Director Telephone: (760) 839-4671
Address: City of Escondido Planning Division - 201 N. Broadway, Escondido, CA 92025

Private entity School district Local public agency State agency Other special district

Exempt Status:

Categorical Exemption. CEQA Section 15061(b)(3) "General Rule."

Reasons why project is exempt:

- 1. The proposed code amendment is merely a declaration of existing law and does not expand or reduce the type of land uses that may be established in the City.
2. The proposed code amendment would establish an explicit regulatory structure governing medical marijuana land uses and businesses. No physical improvements are proposed as part of this code amendment.
3. In staff's opinion the proposed development would not have the potential to cause an adverse impact on the environment. Therefore, the proposal is not subject to further CEQA review.

Lead Agency Contact Person: Bill Martin Area Code/Telephone/Extension (760) 839-4557

Signature: Bill Martin, Assistant Planning Director Date

Signed by Lead Agency Date received for filing at OPR:

Signed by Applicant

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ISSUES

Initiatives

[Drugged Driving](#)[Community Based Prevention](#)[Healthcare](#)[Marijuana](#)[Methamphetamine and New Psychoactive Substances](#)[Public Lands](#)

Special Populations

[Military, Veterans, and Families](#)[Women, Children, and Families](#)[Colleges and Universities](#)[Native Americans and Alaskan Indians](#)[Drug Endangered Children](#)[Fact Sheets](#)

Marijuana

- [Marijuana FAQ](#)
- [State Laws Related to Marijuana](#)
- [The Public Health Consequences of Marijuana Legalization](#)

Marijuana is a topic of significant public discourse in the United States, and while many are familiar with the discussions, it is not always easy to find the latest, research-based information on marijuana to answer to the common questions about its health effects, or the differences between Federal and state laws concerning the drug. Confusing messages being presented by popular culture, media, proponents of “medical” marijuana, and political campaigns to legalize all marijuana use perpetuate the false notion that marijuana is harmless. This significantly diminishes efforts to keep our young people drug free and hampers the struggle of those recovering from substance use disorders.

The Administration steadfastly opposes legalization of marijuana and other drugs because legalization would increase the availability and use of illicit drugs, and pose significant health and safety risks to all Americans, particularly young people.

This Web-based resource center provides the general public, community leaders, and other interested people with the facts, knowledge, and tools to better understand and address marijuana in their communities. This resource center will be regularly updated and expanded to address emerging issues, research, and prevention tools, and highlight successful local efforts to reduce marijuana use.



Physician Recommendation of Medical Cannabis

Guidelines of the Council on Scientific Affairs Subcommittee on
Medical Marijuana Practice Advisory

Purpose

In 1996, California voters approved an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of cannabis. In 2003, the Legislature enacted additional standards relating to medical cannabis.¹ While this legislation established a list of approved medical conditions for which medical cannabis may be recommended, most listed conditions were left unsubstantiated by additional description, causing confusion when determining if medical cannabis is an appropriate therapeutic tool.

It is for the benefit of physicians and patients that these medical cannabis recommendation guidelines have been established to help ensure that the substance is being used for the appropriate purposes. This document addresses the medicinal use of cannabis, rather than its recreational use, as the medical indications for the use of cannabis are quite limited.

All ethical standards and best medical practices to which physicians adhere to when prescribing medications, including controlled substances, remain applicable to physicians recommending medical cannabis.

Governing California Statute

I. Proposition 215 - The Compassionate Use Act of 1996ⁱ

On November 5, 1996, the people of California passed Proposition 215, which decriminalized the cultivation and use of cannabis by seriously ill individuals upon a physician's recommendation (*Health & Safety Code §11362.5*). Proposition 215 was enacted to "ensure that seriously ill Californians have the right to obtain and use marijuana [cannabis] for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana

[cannabis]," and to "ensure that patients and their primary caregivers who obtain and use marijuana [cannabis] for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction" (*Health & Safety Code §11362.5(b)(1)(A)-(B)*).

II. Senate Bill 420 - The Medical Marijuana Program Act (MMP)^{ii,iii}

On January 1, 2004, Senate Bill 420 (Vasconcellos) became law, thus enacting the Medical Marijuana Program Act (MMP) (*Health & Safety Code §§.11362.7-11362.83*). The intent of the MMP was to clarify Proposition 215 by stipulating how patients who could not grow their own cannabis should obtain the substance. The MMP thus permits a primary caregiver to be paid a "reasonable compensation" for services provided to a qualified patient "to enable that person to use marijuana [cannabis]." It also states that a patient may cultivate up to six mature plants or possess up to half a pound of processed cannabis for medical purposes.

The MMP also required the California Department of Public Health to establish and maintain a program for the voluntary registration of qualified medical cannabis patients and their primary caregivers through a statewide identification card system. The voluntary registration program is administered through a patient's county of residence. To be eligible for a medical cannabis card a patient must apply through his or her county of residence and the medical records must contain written documentation by the attending physician that the patient has been diagnosed with a serious medical condition and that the medicinal use of cannabis is appropriate. A "serious medical condition" is defined to include:

1. Acquired immune deficiency syndrome (AIDS)
2. Anorexia
3. Arthritis

¹. Refer to the Glossary of Terms definition of "marijuana" for a description of the use of terminology.

4. Cachexia
5. Cancer
6. Chronic pain
7. Glaucoma
8. Migraine
9. Persistent muscle spasms, including, but not limited to spasms associated with multiple sclerosis
10. Seizures, including, but not limited to seizures associated with epilepsy
11. Severe nausea
12. Any other chronic or persistent medical symptom that either:
 - a. Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans and Disabilities Act of 1990 (Public Law 101-336).
 - b. If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

The above list of serious medical conditions is broad, and in most cases not supported by solid clinical research.

Implementation of the MMP Act provided an element of professional qualifications and provider deliberation by calling for the attending physician to fulfill the following:

1. Possess a license to practice medicine or osteopathy in California issued by the Medical Board of California or the Osteopathic Medical Board of California. This license must be in good standing.
2. Take responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of the applicant (patient).
3. Perform a medical examination of the applicant (patient).
4. As a result of the medical examination, document in the patient's medical record that the patient has a serious medical condition and that the medical use of marijuana [cannabis] is appropriate.

5. Have the patient sign an authorized medical release of information. The county program cannot process the patient's application without the appropriate authorization for release of medical information.
6. Provide to the patient copies of the medical records stating that he or she has been diagnosed with a serious medical condition and that the medical use of marijuana [cannabis] is appropriate.

Therapeutic Benefits

Medical cannabis may be effective for the treatment of pain, nausea, anorexia, and other conditions, but the literature on this subject is inadequate, dosage is not well standardized, and cannabis side effects may not be tolerated.^{iv}

At present, cannabinoids are thought to exhibit their greatest efficacy when implemented for the management of neuropathic pain.^v Neuropathic pain is a form of severe and often chronic pain resulting from nerve injury, disease, or toxicity. Existing pharmacologic treatments for neuropathic pain are not optimal. There is a significant population of patients who do not receive adequate relief from their pain through the use of pharmacologic treatments.

Other putative clinical benefits of cannabis have been discussed in the literature, prompting the call for scientific study. Most notable, a Consensus Conference sponsored by the National Institutes of Health^{vi} and a review panel convened by the Institute of Medicine^{vii} advocated that controlled studies be performed for analgesia, appetite stimulation and cachexia; nausea and vomiting following chemotherapy; neurological and movement disorders; and glaucoma.

In 2001, the American Medical Association (AMA) Council on Scientific Affairs advocated that the National Institutes of Health (NIH) implement administrative procedures to facilitate grant applications to conduct well-designed clinical research into the medical utility of cannabis.^{viii} In 2008, the American College of Physicians (ACP) urged "an evidence-based review of marijuana's [cannabis] status as a Schedule I controlled substance to determine whether it should be reclassified to a different schedule."^{ix} One year later (2009), the AMA's House of Delegates put forward a clear-cut message that marijuana's [cannabis] Schedule

I status was no longer appropriate and interfered with legitimate medical research.^x Most recently, the California Medical Association's House of Delegates adopted policy urging that marijuana's [cannabis] status as a federal Drug Enforcement Administration Status I controlled substance be reviewed with the goal of facilitating research (*HOD 102a-10*).

In 1999, Governor Gray Davis signed SB 847, which commissioned the University of California to fund research expanding our understanding of the therapeutic value of cannabis. The University of California Center for Medicinal Cannabis Research (CMCR) was organized to conduct clinical and pre-clinical studies of cannabinoids, including smoked cannabis. CMCR developed a close working relationship with state and federal agencies to gain regulatory approvals, established panels of nationally-recognized experts to rigorously review the merit of applications, and fund carefully designed studies. CMCR reported upon the results of a number of studies to the California legislature in 2010.^{xi} Among these, four studies involved the treatment of neuropathic pain; all four demonstrated a significant improvement in pain after cannabis administration. The results of another study investigating patients with multiple sclerosis found a significant improvement in both objective measures of spasticity and pain intensity in patients whose standard therapy had been inadequate.

Health Risks

Multiple health risks have a documented association with cannabis use.

Addiction: Addiction to cannabis may be characterized by escalating use, inability to cut back, craving, harmful consequences, and physical dependence. Epidemiologic data from a national comorbidity study indicate that about 9% of adult cannabis users become addicted and that this risk is substantially increased among individuals who begin using before age 18. Although of little consolation, among adults the incidence is low compared to alcohol use (15%), opioids (23%) or nicotine (32%).^{xii}

Short Term Cognitive Effects: Cannabis intoxication causes well-defined impairments in the following brain functions: Memory, sense of time, sensory perception, attention span, problem solving, verbal fluency, reaction time, and psychomotor control. The short term effects of cannabis

last approximately 1-4 hours, depending on potency of the cannabis, the route of administration, and the tolerance of the user. There are no reported cases of death resulting from cannabis overdose.^{xiii}

Long Term Cognitive Effects: The possible medicinal use of cannabinoids for chronic diseases emphasizes the need to understand the long term cognitive effects of these compounds. Results of a meta-analysis indicated that there might be decrements in the ability to learn and remember new information in chronic users, whereas other cognitive abilities were unaffected.^{xiv} The authors opined that, under the more limited conditions of exposure that would likely be seen in a medical setting, the benefits could outweigh problematic effects and the therapy might thereby prove to be acceptable.

Adolescents and Young Adults: The evidence suggests that cannabis can adversely affect adolescents who initiate use early and young adults who become regular users.^{xv} Compared to adults, adolescents and young adults may have greater vulnerability to the toxic effects of cannabis on the brain, especially when alcohol and cannabis are used together. In addition to increased risk of addiction, use of cannabis among adolescents is associated with poorer educational outcomes and occupational attainment.^{xvi} There is also the possibility that cannabis increases the risk of developing mental illness in this age group.^{xvii}

Psychiatric Conditions: Cannabis intoxication can cause transient mood, anxiety, and psychotic symptoms. The relationship between cannabis use and long term risk of psychiatric disorders is less well understood. Cannabis use has been weakly correlated with long term risk of mood disorders and anxiety disorders. The association between cannabis use and psychotic disorders is more robust. Cannabis can unmask symptoms among individuals who have pre-existing vulnerability (such as a family history) to schizophrenia.^{xviii} Additionally, there is some evidence that cannabis may be an independent risk factor for the development of psychotic disorders such as schizophrenia. Although the mechanism is unknown, repeated studies have shown that cannabis use is correlated with an increase in the risk of manifesting schizophrenia, an illness that affects approximately 1% of the global population.^{xix}

Obstructive Lung Disease: Given the increased risk of chronic obstructive pulmonary disease (COPD) in tobacco smokers, there is concern that a similar risk may exist among smokers of cannabis. Cannabis smoking by itself probably does not lead to COPD^{xx} but smoking both cannabis and tobacco is associated with a greater risk of COPD than smoking only tobacco.^{xxi}

Lung Cancer: The constituents of cannabis smoke are quantitatively analogous to those of tobacco smoke, with the exceptions of delta-9-tetrahydrocannabinol (THC) - found only in cannabis - and nicotine - found only in tobacco. Paradoxically, epidemiologic findings are inconsistent with the biological plausibility of cannabis being carcinogenic in aerodigestive tissue. Using over 1,000 incident cancer cases and over 1,000 cancer-free controls matched to cases on age, gender, and neighborhood, investigators at UCLA found no positive associations for malignancies after adjusting for several confounders (including cigarette smoking).^{xxii} They concluded that the association of pharyngeal and pulmonary cancers with cannabis, even long-term or heavy use, is "not strong and may be below practically detectable limits."

Motor Vehicle Accidents: Epidemiological studies have been inconclusive regarding whether cannabis use causes an increased risk of accidents; in contrast, unanimity exists that alcohol use increases crash risk.^{xxiii} In tests using driving simulation, neurocognitive impairment varies in a dose-related fashion, and are more pronounced with highly automatic driving functions than with more complex tasks that require conscious control, whereas alcohol produces an opposite pattern of impairment.^{xxiv} Cannabis smokers tend to over estimate their impairment and compensate effectively while driving by utilizing a variety of behavioral strategies. During driving simulation, experimental subjects under the influence of cannabis drive slowly, leave a large distance between themselves and the car in front of their simulated car, and avoid changing lanes.

Reproductive Risks: The compounds found in cannabis readily cross the placenta, where the growing fetus absorbs them, and pass into breast milk, where the nursing infant ingests them. Cannabis affects many aspects of reproductive physiology in both men and women, though the long term consequences of these effects remain

unclear.^{xxv} Cannabis use during pregnancy and early development has been correlated with low birth weight as well as developmental delay and behavioral problems including addiction, although the causal link to cannabis use has not yet been established.^{xxvi, xxix}

Physicians and Dispensaries

Investigative journalists have described lucrative clinics with salaried physicians who specialize in providing medical cannabis recommendations, potentially for undocumented medical conditions.^{xxvi, xxvii} Licensed physicians who already have or who are considering entering into a professional employment agreement with a cannabis clinic or dispensary for the purpose of evaluating patients and recommending cannabis should exercise caution to prevent violations of California's bar on the corporate practice of medicine.

As a general rule, in most cases it is not appropriate for a physician to be hired by a non-physician. California has a strong long-standing public policy against permitting lay persons to practice any of the medical arts or to exercise control over the decisions made by healing arts practitioners. Physicians who are considering employment by a cannabis clinic or dispensary should confirm that *the business is a physician-owned medical practice or a professional medical corporation with physicians being the majority shareholder*. A cannabis clinic or dispensary that is not *a physician-owned medical practice or a professional medical corporation* may not *employ* physicians to provide medical services, such as diagnosing patients and recommending cannabis.

Physicians are strongly encouraged to seek professional legal advice before engaging in any business endeavor that involves the practice of medicine.

Preventing Cannabis Diversion for Non-Medical Use

The California cannabis harvest is very profitable and worth an estimated \$17 billion or more, dwarfing any other sector of California's agricultural economy.^{xxx} Although the scope of diversion of this crop is not known, California's approach to medical cannabis has in some cases, virtually decriminalized recreational use and has led to excesses. As a result of lax regulation, the number of medical cannabis

dispensaries has exploded. Before local law enforcement curtailed activity, there were estimates of 800 to 900 storefront shops selling cannabis in Los Angeles alone. It is a rational assumption that, unless physicians adhere to their ethical and fiduciary responsibilities to patients, controlling the number of dispensaries or limiting the number of plants cultivated will not suffice in the challenge to prevent the diversion of cannabis for recreational use.^{xxx}

Prescribing controlled substances normally brings with it a risk of regulatory oversight, thus the regulatory vacuum that currently exists in most states permitting the use of medical cannabis needs to be corrected. In essence, states that have adopted medical cannabis laws should establish a mechanism to allow their boards of medicine to thoroughly supervise the recommendations made by physicians for medical cannabis.^{xxxii} It is this regulatory rationale that prompted California's attorney general, Jerry Brown, to issue "Guidelines for the Security and Non-Diversion of Marijuana [Cannabis] Grown for Medical Use," in 2008.^{xxxiii} These guidelines were intended to verify the existence of a bona fide doctor/patient relationship when cannabis is recommended for therapy or palliation.

Disciplinary Consequences

I. California Law

State law prohibits disciplining a physician for recommending cannabis for treatment of a serious medical condition (*Health & Safety Code §11362.5(c)*). However, the Medical Board of California can and does take disciplinary action against physicians who fail to comply with accepted medical standards when recommending cannabis. In a May 13, 2004 press release, the Medical Board of California clarified that these accepted standards are the same ones that a reasonable and prudent physician would follow when recommending or approving any medication.^{xxxiv} These standards include the following:

1. History and good faith examination of the patient.
2. Development of a treatment plan with objectives.
3. Provision of informed consent including discussion of side effects.
4. Periodic review of the treatment's efficacy.

5. Consultation, as necessary.

6. Proper record keeping that supports the decision to recommend the use of medical marijuana [cannabis].

II. Federal Law

The federal government regulates marijuana [cannabis] through the Controlled Substances Act (*21 U.S.C. §811*). It is important to note that this Act does not recognize a difference between the recreational and medicinal use of marijuana [cannabis].

Under federal law, marijuana [cannabis] is currently classified in statute as a Schedule I drug, meaning it has no generally recognized medical use. On June 6, 2005, the United States Supreme Court ruled that the federal Controlled Substances Act is valid even as applied to intrastate, noncommercial cultivation, possession and use of marijuana [cannabis] for personal medical use on the advice of a physician.^{xxxv} The Court's ruling maintains the existing federal prohibition against possession, cultivation, and distribution of marijuana [cannabis]. The ruling has no direct impact on California's current law (CUA and MMP), nor does it narrow or otherwise negatively affect the Ninth Circuit's ruling in *Conant v. Walters*, which stated that physicians have a First Amendment right to discuss treatment options with their patients, including treatment with medical marijuana [cannabis].

Federal law establishes a clear prohibition against knowingly or intentionally distributing, dispensing, or possessing marijuana [cannabis] (*21 U.S.C. §841-44*). A person who aids and abets another in violating federal law, 18 U.S.C. §2, or engages in a conspiracy to purchase, cultivate, or possess marijuana [cannabis], 21 U.S.C. §846, can be punished to the same extent as the individual who actually commits the crime. The penalty for a first-time violation of these provisions in the case of less than 50 kilograms of marijuana [cannabis] is imprisonment for a term of up to five years, a fine of up to \$250,000, or both. The penalty for a violation committed after a prior drug conviction is imprisonment for a term of up to ten years, a fine of \$500,000, or both (*21 U.S.C. §841(b)(1)(D)*).

Other federal sanctions are also possible. If a physician were to aid and abet or conspire in a violation of federal law,

the federal government might revoke the physician's DEA registration through an administrative procedure. Physicians should also be aware that a felony conviction relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance results in mandatory exclusion from the Medicare and Medi-Cal programs (42 U.S.C. §1320a-7(a)(4)).

For more information, refer to CMA medical-legal document #1315, "The Compassionate Use Act of 1996: The Medical Marijuana Initiative."

Best Practices for Physicians

The enactment of Proposition 215 through its overwhelming support by the people of California embodied the belief that patients were being denied a medication that could alleviate suffering. Nowhere is this more readily evident than for the treatment of certain conditions (pain, nausea and vomiting secondary to chemotherapy, spasticity, and anorexia associated with AIDS). The efficacy of medical cannabis in other medical illnesses is less well-defined and will require additional time for elucidation through scientific inquiry.

Oral forms of THC, available by prescription in the United States for nausea and vomiting associated with cancer chemotherapy, include dronabinol (Marinol) and nabilone (Cesamet). These cannabinoids are less effective with severely emetogenic drugs such as cisplatin, while other drugs such as ondansetron (Zofran and others) and aprepitant (Emend) appear to be more effective and better tolerated.^{xxxvi} Dronabinol is also approved for the treatment of anorexia associated with AIDS. Another cannabinoid, nabiximols (Sativex – GW Pharmaceuticals), is a liquid extract containing THC and cannabidiol, another constituent of botanical cannabis.^{xxxvii} Approved in Canada for adjunctive treatment of central neuropathic pain in multiple sclerosis, it is in phase III trials in the US for treatment of intractable cancer pain.

Over a decade ago, some NIH Conference^{xxxviii} and Institute of Medicine^{xxxix} participants stressed that, because the whole cannabis plant contains many possibly active cannabinoids besides THC, its possible efficacy may not be replicated by medications containing only THC. Consideration of smoked or preferable vaporized cannabis should be considered if

oral medications are not effective or if the doctor/patient jointly decide to exclude the use of these medications for a valid reason (i.e., cost).

Patients should be advised to keep medical cannabis in a secure location so as to avoid diversion particularly to children and/or adolescents. They should be advised to consume as little as possible to produce the desired medical effect. Patients should be queried as to the development of tolerance and withdrawal phenomena and their ability to control the intake of medical cannabis. In addition, testing for illicit drugs through toxicology analysis should be considered, as clinically indicated, to ensure that illicit drugs are not being consumed. The physician should inquire as to the outcome of the use of this medication in terms of its efficacy and side effects on a periodic basis. Patients should be reminded not to drive or operate heavy machinery while under the influence of cannabis.

The physician should assess and document patient-specific risks, benefits, and alternatives to treatment with cannabis. The physician should take particular precaution among at-risk populations, including children and young adults, pregnant or breast feeding women, and individuals with mental illness, and those with pre-existing histories of addiction. The physician should also have the capacity to screen and either treat or refer patients who develop adverse effects such as addiction.

Additionally, physicians will have to keep abreast of emerging literature on the subject of medical cannabis. It is hoped that "neither popular votes nor congressional 'findings' should be permitted to trump scientific evidence in deciding whether or not cannabis is an appropriate pharmaceutical agent to use in modern medical practice."^{xl, xli} By maintaining interest and valuing their fiduciary responsibilities, physicians can potentially improve the lives of the patients they serve using medical cannabis as they do with other pharmaceuticals.

Conclusions

Medical cannabis may be effective for treatment of nausea, anorexia, pain and other conditions (i.e., spasticity), but more clinical research is needed to update practitioners regarding specific indications, dosing, and the management of side effects. Legislative decision-making is a poor

alternative to scientific analysis in deciding whether or not cannabis is an appropriate pharmaceutical agent. Additional basic scientific and clinical research is needed to evaluate cannabinoids as medical agents. Regulation of dispensaries and physicians who recommend medical cannabis remains a long-term goal to prevent the use of cannabis for virtually any and all complaints. The professional ethic of health care providers should be implemented through regulatory oversight to optimize patient safety and wellbeing and, potentially, to prevent diversion of medical cannabis to recreational users.

Glossary of Terms

Cannabinoids

The term "cannabinoid" has different meanings. In a more narrow sense, it designates the natural phytocannabinoids found in the cannabis plant, as well as their synthetic versions and derivatives. In the broadest sense, it denotes all molecules that bind to the cannabinoid receptors, including the endogenous cannabinoids (endocannabinoids).

Cannabinoid Receptors

Several cells in the brain and other organs contain specific protein receptors that recognize THC and some other cannabinoids and trigger cell responses. Other cannabinoids do not bind to these cannabinoid receptors and exert their effects by other ways. The discovery of specific cannabinoid receptors prompted the search for putative naturally-occurring chemicals that interact with the receptors, the endocannabinoids. There are at least two cannabinoid receptor types, CB1 receptors, and CB2 receptors. CB1 receptors are found in high concentrations within the brain and spinal cord. They are also present in certain peripheral cells and tissues (some neurons, some endocrine glands, leukocytes, spleen, heart and parts of the reproductive, urinary and gastrointestinal tracts). CB2 receptors are expressed primarily by immune cells and tissues (leukocytes, spleen and tonsils).

Cannabis

Cannabis sativa L. is the botanical name and Latin binomial of hemp. There are 483 known identifiable chemical constituents present in the cannabis plant. The most distinctive and specific class of compounds are the

cannabinoids (66 known), which are produced only by the cannabis plant. Because the potency and content of cannabis varies significantly, depending on its strain and the conditions of cultivation, harvesting, and storage/processing, "cannabis" is not a homogenous substance, unlike other medical products. It can also be contaminated with pesticides, heavy metals, and harmful microbes. Current methods of administration do not assure a reliable and reproducible dose.

Cannabis-derived products

These are products containing cannabis or cannabis extracts. The term may refer to standardized prescription medications, such as nabiximols (see below), or to products sold by cannabis dispensaries or prepared by individual consumers.

Dispensaries

These are cannabis distribution centers that sell different varieties of herbal cannabis, cannabis-derived products, and cannabis consumption devices. Dispensaries may cultivate their own cannabis, but generally purchase the cannabis from external vendors.

Dronabinol

Dronabinol is another name for the naturally occurring (-)-trans-isomer of delta-9-THC, often used in a medical context in the scientific literature. Dronabinol is often used to refer to the synthetically manufactured molecule. There is no chemical or pharmacological difference between the natural dronabinol found in the plant and dronabinol that is manufactured synthetically or semi-synthetically.

Endocannabinoids

The endogenous ligands of the cannabinoid receptors have been termed endogenous cannabinoids or endocannabinoids. Endocannabinoids are produced by both humans and animals. Some endocannabinoids are arachidonyl-ethanolamide (anandamide), 2-arachidonyl glycerol (2-AG), 2-arachidonylglycerol ether (noladin ether), arachidonyl-ethanolamine (virodhamine), and N-arachidonyl-dopamine (NADA).

Hemp

Depending on THC and other cannabinoid content, hemp can be divided into fiber types and drug types. In the US and Canada, the term "hemp" is usually applied only to fiber

hemp, in contrast to the terms “marijuana” or “cannabis,” which generally apply to drug types (1-20+% THC). (Grotenhermen and Russo, 2002).

Herbal (or botanical) cannabis

This term refers to the leaves or flowers of the cannabis plant, as distinguished from cannabis-derived products.

Marijuana

Marijuana is a slang term for the dried leaves and flowers of the varieties of the cannabis plant that are rich (1-20+% THC). Throughout these guidelines, the scientific term “cannabis” will be used, except where the term “marijuana” is contained in a direct quotation.

Marinol®

Marinol® is a preparation of synthetic dronabinol, dissolved in sesame oil, as capsules of 2.5, 5, and 10 mg dronabinol. Marinol® is available in the US, Canada, and some European countries. Generic versions of Marinol® are now available.

Medicinal cannabis

This refers to cannabis that is recommended by a physician to be used by a patient for medical purposes.

Nabilone

Nabilone is a synthetic derivative of delta-9-THC with a slightly modified molecular structure, available in some countries on prescription. Nabilone is sold under the trademarked name of Cesamet®.

Nabiximols

Nabiximols is the United States Adopted Name (USAN) applied to Sativex®, a cannabis-derived prescription medication. Sativex® is approved in the UK, Spain, Germany, New Zealand, and Canada as an adjunctive

treatment for spasticity in patients with multiple sclerosis (MS). It is also provisionally approved in Canada as an adjunctive treatment for neuropathic pain in MS and for persistent background pain associated with advanced cancer. Sativex® is comprised of a defined ratio (1:1) of THC and CBD (cannabidiol—a nonpsychoactive cannabinoid), as well as other minor cannabinoids and active plant components. It is administered as an oromucosal spray absorbed by the lining of the mouth.

Primary caregivers

Under California law, the term “primary caregiver” refers to the individual, designated by a qualified patient (i.e., one with a physician’s recommendation to use cannabis for medical purposes), who has consistently assumed responsibility for the patient’s housing, health, or safety. The California Supreme Court ruled that a person whose “caregiving” consists principally of supplying cannabis and instructing on its use, and who otherwise only sporadically takes some patients to medical appointments, cannot qualify as a “primary caregiver” under the CUA. (*People v. Mentch* (2008) 45 Cal.4th 274, 85 Cal.Rptr.3d 480.) The court concluded that a primary caregiver must prove at a minimum that he/she 1) consistently provided caregiving, 2) independent of any assistance in taking medicinal cannabis, 3) at or before the time he/she assumed responsibility for assisting with medicinal cannabis. A primary caregiver must be the principal, lead, or central person responsible for rendering assistance in the provision of daily life necessities. Therefore, a dispensary generally will not qualify as a primary caregiver.

THC

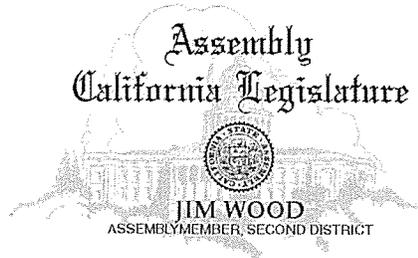
THC or delta-9-tetrahydrocannabinol is the primary psychoactive cannabinoid found in the cannabis plant. ■

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- ^{xxxv} *Gonzalez v. Raich* (2005) 525 U.S. 1, 162 L.Ed.2d 1, 125 S.Ct. 2195.
- ^{xxxvi} Medical Marijuana. *The Medical Letter® On Drugs and Therapeutics.* January 25, 2010;52(1330).
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- ^{xli} Ibid.

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The Marijuana Regulation and Safety Act's March 1st Deadline

An open letter to County and City Government Officials:

Like many of my colleagues, I began my public service career at the local level where decisions made in Sacramento often have a profound impact on the decisions we make in our communities. Over the past several weeks, I have learned that cities and counties are scrambling to put regulations regarding medical marijuana in place ahead of a March 1st deadline that was inadvertently included in AB243 of the Medical Marijuana Regulation and Safety Act (MMRSA). As a former local elected I understand this reaction. However, I am writing this letter to clarify some of the confusion that has resulted from the inclusion of the March 1st deadline in the MMRSA.

The MMRSA will bring a multi-billion dollar industry that has grown up largely in the shadows into the light. Ultimately, the goal is to provide Californians with the legal, consumer, and environmental protections we have come to expect from any other industry.

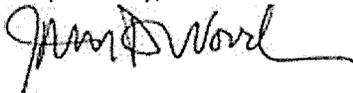
During the scramble at the end of the legislative session this year, an inadvertent drafting error placed a deadline on local jurisdictions, requiring them to adopt their own land use regulations for medical cannabis cultivation by March 1, 2016, or turn that responsibility over to the state. As soon as I was aware of the error I published a letter in the Assembly Journal, the official record of the Assembly, declaring my intention to pass urgency legislation as soon as the legislature reconvenes in January. The compromise agreement with the Governor's office did not include the March 1st deadline and this urgency legislation will ensure that the MMRSA's legislative intent is not altered. I have already amended one of my bills with language that will strike the deadline and maintain a local jurisdiction's ability to create their own regulations. As an urgency measure, the law will go into effect as soon as it is signed by the Governor.

My intent to remove the deadline has bi-partisan and stakeholder support. The Governor's office is prepared to partner with my office to ensure local control on this issue. I appreciate the Governor's acknowledgement of this drafting error and his office's willingness to work with me to quickly resolve the problem. Even if my urgency measure is not signed until after March 1st,

the Bureau of Medical Marijuana Regulation (BMMR), the entity responsible for developing the State's regulations, currently exists on paper only. It will be many months before the Bureau has the capacity to develop and enforce statewide regulations. Additionally we have received legal feedback confirming that once my urgency measure is in effect jurisdictions will retain the local control they need.

I am confident that my colleagues and I will eliminate the March 1st deadline before it becomes a realistic problem as opposed to a theoretical concern for local lawmakers.

Respectfully,

A handwritten signature in black ink that reads "Jim Wood". The signature is written in a cursive style with a long horizontal line extending to the right.

JIM WOOD

ASSEMBLYMEMBER, 2ND DISTRICT

MEDICAL MARIJUANA REGULATION AND SAFETY ACT¹

What Cities Need to Know About the New Law and Cultivation

OVERVIEW

Here's what you need to know:

- **Local prohibition or regulation:** Cities may prohibit or regulate medical marijuana businesses within their jurisdictions. **Local authority remains intact under the new law.**
- **State license required:** All medical marijuana businesses – dispensary sales, delivery service, cultivation, transport or distribution – must have a State license².
- **State license not enough:** A medical marijuana business in any city may only operate if it has permission from the State and permission from the city (“dual licensing”).
- **Enforcement:** Revocation of local permission to operate means a medical marijuana business must terminate operation because the new law requires dual licensing. Upon approval of the State, a city may enforce State law.
- **State law penalties for unlicensed activity:** There are civil penalties and criminal penalties for operating without a State license.

CULTIVATION

Here's what you need to know:

If your city does **not** have a land use ordinance in place regulating or prohibiting the cultivation of marijuana, *either expressly or otherwise under the principles of permissive zoning*, or chooses not to administer a conditional permit program, then commencing **March 1, 2016**, the State Department of Food and Agriculture will be the sole licensing authority for medical marijuana cultivation applicants.

¹ AB 266 (Bonta, Cooley, Jones-Sawyer, Lack, Wood); AB 243 (Wood); and SB 643 (McGuire). Effective 1/1/2016.

² The Department of Consumer Affairs estimates it will begin issuing State licenses in January 2018. The Department of Food and Agriculture and the Department of Public Health also have licensing authority under the new law. Businesses operating in compliance with local ordinances will get priority in the State licensing application process.

October 27, 2015

CULTIVATION

Here's what you need to do:

Determine if your city fits within City #1 or City #2 as described below:

- **City #1:** Municipal Code that does not expressly prohibit nor expressly regulate cultivation of medical marijuana and is not a “permissive zoning” code. **Need to take action.**

ACTION REQUIRED: Adopt a land use ordinance regulating or prohibiting the cultivation of medical marijuana. The ordinance must be effective by February 28, 2016. The ordinance may be adopted as an “urgency ordinance,” or second reading must occur on or before January 29, 2016.

- **City #2:** Municipal Code that is a “permissive zoning” code and does not enumerate cultivation of medical marijuana as a permitted or conditional use. **Need to take action.**

ACTION REQUIRED: (1) Check and confirm that your city’s zoning code is adopted and implemented under the principles of permissive zoning. If not, take action recommended for City #1. (2) If confirmed, adopt a resolution that includes the following provisions:

- States that Health & Safety Code section 11362.777(b)(3) provides that the Department of Food and Agriculture may not issue a State license to cultivate medical marijuana within a city that prohibits cultivation under principles of permissive zoning;
- Re-affirms and confirms that the Zoning Code is adopted and operates under the principles of permissive zoning;
- States this means that cultivation of marijuana is not allowed within City #2 because it is not expressly permitted; and
- Therefore, the State is not allowed to issue a license for the cultivation of medical marijuana within City #2.

Be sure to consult with your city attorney before taking any of the actions recommended in this document.



MEDICAL MARIJUANA REGULATION AND SAFETY ACT¹

What Cities Need to Know About the New Law and Delivery Services

OVERVIEW

Here's what you need to know:

- **Local prohibition or regulation:** Cities may prohibit or regulate medical marijuana businesses within their jurisdictions. **Local authority remains intact under the new law.**
- **State license required:** All medical marijuana businesses – dispensary sales, delivery service, cultivation, or transport – must have a State license².
- **State license not enough:** A medical marijuana business in any city may only operate if it has permission from the State **and** permission from the city (“dual licensing”).
- **Enforcement:** Revocation of local permission to operate means a medical marijuana business must terminate operation because the new law requires dual licensing. Upon approval of the State, a city may enforce State law.
- **State law penalties for unlicensed activity:** There are civil penalties and criminal penalties for operating without a State license.

DELIVERY

Here's what you need to know:

If a city does not expressly prohibit the delivery of medical marijuana within its jurisdiction, delivery will be allowed (with a State dispensary license). This means that if your city wishes to prohibit the delivery of medical marijuana within its jurisdiction, the city must adopt an ordinance expressly prohibiting delivery services and mobile dispensaries.

DELIVERY

Here's what you need to do:

- Determine whether your city currently bans delivery services for medical marijuana.
- If you have a ban, determine whether it is an express ban, or a ban enacted via permissive zoning (i.e., it is not listed in your zoning or other codes as a permitted activity within the city limits).
- If you have an express ban specifically identifying marijuana deliveries as a prohibited activity, you do not need to take further action.
- If you wish to prohibit delivery services but do not have an express ban, **you need to take further action.**

ACTION REQUIRED: Adopt an ordinance expressly banning deliveries within your jurisdiction. If you do not adopt an express ban ordinance before the State begins issuing any State licenses, a State-licensed dispensary will be able to deliver medical marijuana within your jurisdiction. You may adopt an ordinance expressly banning deliveries after the State begins to issue licenses. However, it may be difficult to terminate the State licensee's deliveries at that time. Therefore, best practice is for an ordinance to be in place before the State begins issuing State licenses. The State currently estimates that it will begin issuing dispensary licenses in January 2018, but that could certainly happen sooner.

- A ban enacted via permissive zoning is not an express ban.

Be sure to consult with your city attorney before taking any of the actions recommended in this document.

1 AB 266 (Bonta, Cooley, Jones-Sawyer, Lack, Wood); AB 243 (Wood); and SB 643 (McGuire). Effective 1/1/2016.

2 The Department of Consumer Affairs estimates it will begin issuing State licenses in January 2018. The Department of Food and Agriculture and the Department of Public Health also have licensing authority under the new law. Businesses operating in compliance with local ordinances will get priority in the State licensing application process.

December 16, 2015



Frequently Asked Questions (FAQs)

Medical Marijuana Regulation and Safety Act¹

Topic #1: Cultivation

*The State will be the sole licensing authority for the commercial cultivation of medical marijuana unless a city adopts a land use regulation or ordinance regulating or prohibiting the cultivation of marijuana — either expressly or otherwise under the principles of permissive zoning. The land use regulation or ordinance must take effect before **March 1, 2016**.*²

Question: If a city wants to enact a total ban on cultivation, can the ban include cultivation for personal use?

Answer: Yes. Under *Live Oak*³, a city can ban all marijuana cultivation — even cultivation of small amounts by qualified patients. The *Live Oak* ban had no exceptions for personal use by a qualified patient. The new legislation does not change the law in this regard.

Question: Must a city's ordinance prohibiting cultivation make an exception⁴ for personal medical marijuana cultivation of up to 6 mature or 12 immature plants?

Answer: No. In the *Live Oak* case, the California Court of Appeal upheld the city's total ban on all marijuana cultivation. That authority is preserved under the new legislation.

Question: Is a person who cultivates marijuana for his or her personal medical use required to get a cultivation license from the State?

¹ AB 266 (Bonta, Cooley, Jones-Sawyer, Lack, Wood); AB 243 (Wood); and SB 643 (McGuire). Effective 1/1/2016. Please consult your City Attorney before taking action to implement the MMRSA. The answers to these FAQs may be different in your city based upon your municipal code, regulations, and policies.

The answers do not constitute legal advice from the League of California Cities®.

² Health & Safety 11362.777(c).

³ *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975.

⁴ Health & Safety Code 11362.77 allows a qualified patient to cultivate 6 mature or 12 immature plants without criminal liability.

Answer: No, if the area used for cultivation does not exceed 100 square feet, or 500 square feet for a primary caregiver with no more than five patients.⁵ If the areas exceed these limits, then a State license is required. The exemption from the State licensing requirements does not prevent a city from regulating or banning cultivation by persons exempt from State⁶ licensing requirements.

Question: Can a city prevent the State from becoming the sole licensing authority for cultivation by adopting an ordinance (that takes effect before March 1, 2016) that permits the cultivation of six plants per residence?

Answer: Yes. The State becomes the sole licensing authority for cultivation as of March 1, 2016 if a city does not have a land use regulation or ordinance “regulating or prohibiting the cultivation of marijuana” that has taken effect before March 1. An ordinance permitting cultivation under certain specific conditions (not more than six plants per residence) is an ordinance “regulating” marijuana cultivation and therefore qualifies. However, in order to be completely clear, the City Attorney may wish to determine whether it is advisable to prohibit all other types of cultivation as part of the ordinance.

Question: Must the cultivation prohibition be adopted as part of a city’s zoning code? Could it be adopted instead under the city’s business licenses and regulations?

Answer: It is not possible to answer “yes” or “no.” AB 243 requires a “land use regulation or ordinance.” Whether the phrase “land use” requires a zoning ordinance is a question for the city attorney to answer based on the particular language of the city’s municipal code.

Question: Can a city ban large growers but still allow qualified patients to cultivate a small amount of medical marijuana in their private residences?

Answer: Yes. There’s nothing in the legislation that requires a total ban. The most important consideration is to clearly identify cultivation that is prohibited and cultivation that is allowed and to do so with an ordinance that takes effect before March 1, 2016.

Question: Is a temporary land use moratorium (under Government Code section 65858) on medical marijuana cultivation that is effective before March 1, 2016 sufficient to prevent the State from having sole licensing authority under the new law for medical marijuana cultivation applicants in that city?

⁵ Business & Professions Code 19319; Health & Safety 11362.777(g).

⁶ Health & Safety Code 11362.777(g)

Answer: Probably not. Some attorneys think that a temporary land use moratorium is not sufficient because the new law requires a land use regulation or ordinance that prohibits or regulates cultivation. Because a moratorium adopted under Government Code 65858 would only temporarily prohibit cultivation, it may not qualify as a land use ordinance that “prohibits” cultivation. Be sure to consult your city attorney on this question.

Question: Can a local medical marijuana cultivation ordinance be enacted on an urgency basis in order to comply with the March 1, 2016 deadline in the new legislation?

Answer: Probably so. The special findings required for an urgency ordinance adopted under Government Code 36937 could be based upon the March 1 statutory deadline. Some attorneys think that this type of urgency ordinance cannot be used to adopt a land use ordinance. Be sure to consult your city attorney on this question.

Topic #2: Delivery

*Deliveries of medical marijuana can only be made by a State-licensed dispensary in a city that does not explicitly prohibit deliveries by local ordinance. If a city wants to prevent deliveries within its jurisdiction, it must adopt an ordinance expressly prohibiting them.*⁷

Question: Is there a deadline for adopting an ordinance explicitly prohibiting deliveries?

Answer: There is no deadline in the new law. However, best practice would be to adopt the ordinance prior to the date the State begins issuing licenses allowing deliveries so as to reduce the risk of confusion and to avoid the process of requesting the State to terminate the operations of a dispensary making deliveries within the city.

The legislation does not specify a deadline for the State to begin issuing any category of license. The State is generally expected to begin issuing licenses on January 1, 2018, but it could begin sooner.

Question: What are the quantities that delivery services will be authorized to transport?

Answer: The amount that local delivery services will be authorized to carry will be determined by the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs. The determination will be based on security considerations, cash value, and other factors. The amount will be a statewide threshold, authorized for delivery primarily to patients, primary caregivers, and testing labs. Larger amounts will not be considered “delivery” but rather “transport” triggering heightened security requirements while the product is being moved.

⁷ Health & Safety 19340.

Topic #3: Dispensaries and Retail Operations

Question: Will cities still be able to ban dispensaries?

Answer: Yes. Cities currently have the ability to enact bans on dispensaries and other marijuana retail operations. The new law will not change that, and in fact requires a local permit and a State license before a marijuana business can begin operations within a specific jurisdiction. Cities will retain the discretion to deny permits or licenses to marijuana dispensaries.

Question: Can a city allow dispensaries and prohibit delivery services?

Answer: Yes. But cities should be aware that if they wish to prohibit delivery services, an ordinance prohibiting delivery services is required.

Topic #4: Other Questions

Question: Does the new legislation make any distinction between “not-for-profit” and “for profit” medical marijuana businesses?

Answer: No. There is no distinction in the new legislation between medical marijuana businesses that operate “for profit” and those that operate on a “not-for-profit” basis. The new law does not mandate that dispensaries or other businesses operate under either business model.

Question: Are marijuana edibles covered under the new legislation? Is there a separate designation for them under the new law, with additional State regulatory requirements?

Answer: The new legislation directs the State Department of Public Health (DPH) to develop standards for the production and labeling of all edible medical cannabis products (Business & Professions Code section 19332(c)). A license is required from DPH to “manufacture” edibles. The DPH standards are “minimum standards.” A city may adopt additional stricter standards, requirements and regulations regarding “edibles” (Business & Professions Code section 19316(a)). Cities also retain their ability to license and regulate edible sales or distribution.

Question: The new law says: "upon approval of the state, cities may enforce state law". If an existing medical marijuana dispensary does not have both licenses (State and city), then must a city wait for the State to approve shutting the dispensary down before a city can cite the dispensary or otherwise seek to shut it down under the city's ordinances and regulations?

Answer: No. A city may enforce its own ordinances and regulations against the dispensary since a medical marijuana dispensary cannot operate lawfully unless it complies with all local ordinances and regulations.

Question: Does a P.O. Box qualify as a medical marijuana business location? Is that considered a “use” in a city?

December 16, 2015

Answer: The answer to this question depends upon a city's municipal code. The State law prohibits a person from engaging in commercial cannabis activity without possessing both a State license and a local permit, license or other authorization. A State licensee may not commence activity under the authority of a State license until the applicant has complied with all requirements of the applicable local ordinance (Business & Professions Code section 19320). A city's municipal code will determine whether a "use" includes a post office box.

Question: Does the new law address extraction of THC, butane or other substances from marijuana?

Answer: The new law does not specifically address the issue of extraction at all — other than to acknowledge very generally that extraction falls within the definition of manufacturing, and that medical marijuana or a product derived from it may contain extracts.

Question: Since patients and primary caregivers are exempt from the licensing requirement under specified circumstances, how will that work if they are also owners of a dispensary or cultivation site?

Answer: A primary caregiver or qualified patient who seeks to operate a dispensary or cultivation site is subject to the same State licensing requirements and local permitting requirements as any other person.

Question: What types of medical marijuana businesses require a State license?

Answer: The new law creates six State licensing categories: Dispensary, Distributor, Transport, Cultivation, Manufacturing, and Special Dispensary Status for licensees who have a maximum of three dispensaries. Any person or entity wishing to operate under a State license must also comply with all local requirements.

Question: Several initiative measures to legalize recreational marijuana have been filed with the Attorney General in advance of the November 2016 ballot. Should a city be considering prohibiting or regulating recreational marijuana at this time?

Answer: No. The new law does not address recreational use of marijuana. It adds a licensing structure for businesses that wish to serve those qualified patients and primary caregivers who use medical marijuana for their personal use. The League of California Cities is following the various recreational marijuana initiative measures that have been filed with the Attorney General. There is no need for a city to take any action at this time. If a city is interested in following these measures, more information can be found at: <https://www.oag.ca.gov/initiatives/active-measures>.

Question: Does the new law protect the privacy of patients and primary caregivers?

Answer: Yes. Patient and primary caregiver information is confidential and not subject to disclosure under the California Public Records Act, except as necessary for employees of

December 16, 2015

the State or any city to perform official duties.

Question: Is there a provision in the new law giving business operators priority for State licensing if they can show that they are in compliance with local ordinances? If so, what is the purpose of this provision?

Answer: Yes. The State licensing authority is required to prioritize any facility or entity that can demonstrate to the authority's satisfaction that it was in operation and in good standing with the local jurisdiction by January 1, 2016. This provision is intended as an incentive for business operators to be in compliance with local ordinances, to ease any difficulties local governments may have in launching their local regulatory structures, and to help expedite the initial phase of issuing state licenses.

Question: Does the new law address food trucks that sell marijuana edibles?

Answer: No. The operation of food trucks are within the control and regulation of cities and county health departments.

PLEASE NOTE: This document will be updated periodically, as needed, and will remain available at www.cacities.org. As noted above, each city should consult with its city attorney on all of these issues. The answers to these FAQs do not constitute legal advice from the League of California Cities®.

Gary McCarthy

From: Gary McCarthy
Sent: Tuesday, December 29, 2015 3:32 PM
To: Gary McCarthy
Subject: FW: March 2016 Deadline for Medical Marijuana
Attachments: ASA Memo to Counties and Cities.pdf; Wood Open Letter to Co and City.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Terrie Best [ilegalsmile@hotmail.com]
Sent: Tuesday, December 22, 2015 8:55 AM
Subject: March 2016 Deadline for Medical Marijuana

Dear Mayors and Council Members in San Diego County,

Thank you for your service in local government and all you do to make our cities great. I am a native of San Diego County and am proud to shop and visit in our beautiful and unique cities.

As a volunteer coordinator for Americans For Safe Access, I recently wrote to you with two medical marijuana cultivation ordinances, asking you to please not ban medical marijuana cultivation. Thank you for the responses. This is an important issue to citizens of San Diego County and to the cities we all care for.

I wanted to update you about an open letter to you, as County and City Government Officials. The letter is from California Assembly Member Jim Wood (D-Healdsburg).

Mr. Wood is one of the authors of the new state law known as MMRSA. He explains the local control deadline, March 1, 2016, was an **“inadvertent draft error.”** The Assembly Member noted this error in the *Assembly Journal*, the official record of the assembly, and is already engaged in a **bipartisan effort to remove the deadline.** The Assembly Member concludes his letter to local lawmakers by saying, “I am confident that my colleagues and I will eliminate the March 1st deadline before it becomes a realistic problem as opposed to a theoretical concern for law makers. The letter is attached for you in the event you have not yet received it. As you will see, the rush to ban safe access is not necessary and can be harmful.

I am also attaching a very useful and informative memo from our organization, Americans For Safe Access. The memo discusses the MMRSA and how it affects local government. The memo also explains the effects of local bans and gives tables with detailed information about timelines, medical marijuana license types, and other provisions of the MMRSA. I hope you will find it useful as you navigate the essential undertaking of safe and regulated access to medical marijuana in your city.

Once again, thank you for your time. I certainly appreciate your consideration and I wish you all the best in the winter season.

Sincerely,

Terrie Best
San Diego Chapter Chair
Americans For Safe Access
619-651-0706

TO: City Councils and County Boards of Supervisors in California
DATE: December 21, 2015
RE: Local Government and the Medical Marijuana Regulations and Safety Act
(MMRSA)

Key Points

1. The Medical Marijuana Regulation and Safety Act (MMRSA) gives cities and counties a clear indication of what is legal under state law and empowers them to license and regulate commercial medical cannabis activity.
2. While implementation of the MMRSA will take some time, cities and counties can begin the process of necessary local licensing now.
3. Some provisions of the MMRSA affect cities and counties directly.
4. Local bans on personal patient cultivation and commercial medical cannabis cultivation are unnecessary and harmful.

Background

California voters legalized medical cannabis (marijuana) when they approved the Compassionate Use Act (Proposition 215) in 1996. Codified as Health and Safety Code Section 11362.5, the voter initiative calls on lawmakers “to implement a plan to provide for the safe and affordable distribution” of medical cannabis.

Cities and counties have adopted a patchwork of local regulations related to medical cannabis since 1996. Until recently, however, state lawmakers were reluctant to adopt statewide licensing and regulations for medical cannabis activity. In that legal vacuum, some cities and counties began to experiment with regulations for local access programs to meet the needs of legal patients.

Most of the early local ordinances regulating medical cannabis focused on safety, preventing diversion of medicine, and land use issues around local access points (often called *dispensaries*). Local lawmakers did not address issues regarding cultivation, manufacturing, or laboratory testing in these early ordinances. Many cities and counties

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remained ambivalent about licensing or regulating medical cannabis activity in the absence of clear guidance from the state.

Governor Brown signed the Medical Marijuana Regulation and Safety Act (MMRSA) on October 9, 2015, finally bringing some clarity under state law as to the rights and responsibilities of businesses, organizations, and individuals in the field of medical cannabis. The adoption of the MMRSA presents a unique opportunity for cities and counties to revisit their policies regarding commercial medical cannabis activity and bring local ordinances into harmony with this groundbreaking legislation.

Americans for Safe Access (ASA), the nation's leading medical cannabis patient advocacy organization, works in partnership with elected officials at all levels of government to overcome barriers to safe and legal access to medical cannabis for therapeutic use and research. We would like to help cities and counties in California adopt local licensing laws that protect legal patients, reduce crime and complaints, and assist law enforcement in identifying legal medical cannabis businesses and organizations.

The Medical Marijuana Regulation and Safety Act (MMRSA)

Three separate bills comprise the MMRSA – [AB 243](#), [AB 266](#), and [SB 643](#). Each deals with different aspects of licensing and regulating commercial medical cannabis cultivation, manufacturing, distribution, transportation, sales, and testing. The MMRSA is a milestone in California medical cannabis law, because it will create the first legal state licensing for businesses and organizations that are specifically authorized to provide medical cannabis (cultivation, manufacturing, dispensing) and industry support services (testing, transportation) in California.

The MMRSA becomes effective January 1, 2016. The Act creates the Bureau of Medical Marijuana Regulation (BMMR) within the Department of Consumer Affairs to write regulations and oversee licensing. The new law also puts the Department of Food and Agriculture in charge of writing regulations for medical cannabis cultivation. The Department of Health will write regulations for edible preparations of cannabis. The Department Fish and Wildlife and the State Water Board are charged with writing rules for commercial cultivation that protect water quality.

It may take months for the new BMMR to organize and begin operating as a regulatory agency. The other state agencies will also need some lead-time to get started on this unprecedented work. While the MMRSA is effective on January 1, 2016, the

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requirement that medical cannabis businesses and organizations obtain both a state and local license to operate does not become effective until January 1, 2018. For a detailed look at the timeline and deadlines in the MMRSA, see [Table 1](#) at the end of this memorandum.

The MMRSA creates seventeen different state medical cannabis licenses. The Act also contains complicated restrictions designed to prevent vertical integration in the medical cannabis industry. In most circumstances, licensees are limited to holding licenses in two categories. (See [Table 2](#) for details about different state licenses.)

It is important to note that: (1) cities and counties do not have to duplicate the state license types in local ordinances (see more below), and (2) medical cannabis businesses or organizations operating in cities and counties that adopted ordinances requiring or allowing vertical integration (“closed-loop” system) before July 1, 2015, are generally exempt from the MMRSA’s restrictions on holding more than two types of licenses.

The MMRSA contains numerous other provisions, some of which affect local government. See [Table 3](#) for a concise summary of the Act’s provisions prepared by Dale Gieringer, Ph.D., from CA NORML. The full text of each bill, including the Legislative Counsel’s Digest, is available on the LegInfo website at <http://leginfo.legislature.ca.gov>.

The MMRSA and Local Government

The MMRSA gives local government broad latitude in regulating medical cannabis activity. In fact, preserving local authority was a top priority for the authors of the bills that comprise the MMRSA.

- Authorized medical cannabis license applicants in cities and counties with existing local ordinances that require or allow for “closed loop” patients’ cooperatives and collectives, in accordance with California Health and Safety Code Section 11362.775, may continue to operate under the local ordinance until January 1, 2026 (AB 266, Section 19328). That means no disruption for existing program authorized under local law for ten years.
- Applicants for state medical cannabis licenses must also obtain a license, permit, or approval from the city or county in which they are operating or propose to operate [AB 266, Section 1932(a) and AB 243, Section 1362.777(b)].
- Existing medical cannabis business and organizations operating with local approval may continue to operate until their state license is approved or denied.

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- If a city or county does not address commercial medical cannabis cultivation in an ordinance before March 1, 2016, state regulators will become the sole licensing authority. See below for more details on this provision [AB 243, Section 11362.777(c)(4)].
- **Assembly Member Jim Wood (D-Santa Rosa), the author of AB 243, stated in an open letter to local lawmakers in December of 2015, that the March 1, 2015, deadline for adopting local ordinances was the result of “an inadvertent drafting error.” The Assembly Member noted this error in the Assembly Journal, the official record of the Assembly, and is already engaged in a bipartisan effort to remove the deadline. The Assembly Member concludes his letter to local lawmakers by saying, “I am confident that my colleagues and I will eliminate the March 1st deadline before it becomes a realistic problem as opposed to a theoretical concern for lawmakers.” The letter is attached, following the tables, at the end of the memorandum.**

Bans on Personal and Commercial Medical Cannabis Cultivation

Some cities and counties have banned the personal and commercial cultivation of medical cannabis since the adoption of the MMRSA. This is an unnecessary step that is harmful to patients and may deprive the cities and counties of the proven benefits of regulation. ASA urges local lawmakers to remember that cannabis is a legitimate medicine that can and should be properly licensed and regulated under state and local law. It is not a vice or a nuisance. Furthermore, ASA urges local lawmakers to consider the jurisdictions posture towards personal and commercial cultivation as *separate* issues.

There is a legitimate need for local access to medical cannabis.

1. **Many Californians already use medical cannabis, and most report relief from a serious medical condition.** Research shows that more than 1.4 million Californians have used medical cannabis already, and 92% of those report significant relief from a serious medical condition. The most commonly treated conditions include chronic pain, arthritis, migraines, and cancer – conditions for which conventional treatments are often unavailable or ineffective. Furthermore, research shows that cannabis is used by a population that is diverse in age, race, gender, and other factors [“Prevalence of medical marijuana use in California, 2012,” *Drug and Alcohol Review* (2014)]. Given that so many Californians are already using medical cannabis to treat serious conditions, it is

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certain that legal patients who live, work, and shop in your community have a need for safe and legal access already.

2. Mounting scientific evidence confirms that cannabis and cannabis products are safe and effective.

- a. The University of California established the Center for Medical Cannabis Research (CMCR) in 2001 to conduct scientific studies to ascertain the general medical safety and efficacy of cannabis products and examine alternative forms of cannabis administration. In 2010, the CMCR issued a report on the fourteen clinical studies it has conducted, most of which were FDA-approved, double-blind, placebo-controlled clinical studies that have demonstrated that cannabis can control pain, in some cases better than the available alternatives (Grant I, et al. 2010. *Report to the Legislature and Governor of the State of California*. Center for Medicinal Cannabis Research).
- b. The Institute of Medicine released the largest review of research on medical cannabis in its 1999 report *Marijuana and Medicine: Assessing the Science Base*. The report found medical benefits for treating cancer and other conditions, noted that cannabis was uniquely effective for some patients, and called for more research. Read the report at <http://www.nap.edu/read/6376/chapter/1>
- c. See <http://www.safeaccessnow.org/research> for additional information about clinical research related to medical cannabis and specific conditions.

Recommendation: License and regulate medical cannabis at the local level like other legitimate medicines. Lawmakers must remember that it is inappropriate to regulate legitimate medicines as they do vices, including alcohol and tobacco.

Bans on individual patient and primary caregiver cultivation.

1. **Bans on individual patient and primary caregiver cultivation are harmful to patients.** Many patients who legally use medical cannabis cultivate their own medicine at home or in another safe and discrete place. Some designate a Primary Caregiver to help with cultivation, in accordance with California Health and Safety Code 11362.7. Personal, non-commercial cultivation of cannabis can be less expensive for patients than purchasing it. It may also be the only way to consistently obtain a specific variety of medicine that is useful for treating an individual patient's condition.

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2. **Bans push legal patients into the illicit market.** Patients who cannot grow their own medicine may turn to the illicit market for relief, especially in areas where commercial medical cannabis cultivation and dispensing are not permitted. Patients face unnecessary legal, personal, and safety risks in the illicit market. Eliminating those risks for patients was a primary motive for adopting medical cannabis laws in California.
3. **Bans on personal cultivation are not required under the MMRSA.** The new state law does not forbid individual patients and their designated primary caregivers from cultivating medical cannabis for the personal use of the patient. In fact, the MMRSA specifically exempts individual patients and primary caregivers from licensing and regulation requirements. Some cities and counties have banned commercial medical cannabis cultivation in hopes of maintaining control over licensing cultivation under the MMRSA, as discussed in greater detail below. However, there is no requirement or deadline for local government to ban, license, or regulate the personal cultivation of patients and caregivers. *The issues of commercial and personal medical cannabis cultivation can and should be handled separately.*
4. **Personal cultivation is not usually associated with criminal or nuisance activity.** Some cities and counties have banned commercial cultivation and dispensing of medical cannabis based on an unfounded belief that this activity increases crime (see more below). However, it is important to remember that there is no evidence that the personal cultivation of legal medical cannabis is associated with increased criminal nuisance activity.

Recommendation: Allow medical cannabis patients and primary caregivers to cultivate medicine for the personal use of the patient. ASA's model ordinance for regulating commercial medical cannabis cultivation exempts patients and primary caregivers from local licensing regulation and does not interfere with their right to cultivate for personal use under the Compassionate Use Act of 1996 (Proposition 215).

Bans on commercial medical cannabis cultivation.

1. Banning commercial cultivation leaves the majority of legal patients without safe and legal access. Most legal patients rely on dispensaries for safe and legal access to medical cannabis. The MMRSA anticipates that licensed commercial cultivators will supply licensed dispensaries with medical cannabis. However, cultivators and dispensaries must have a local license,

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- permit, or approval to operate. That means local bans on commercial cultivation could choke off access to dispensaries servicing legal patients.
2. Cities and counties are empowered to regulate commercial medical cannabis cultivation under the MMRSA. One of the goals of the new legislation is to give the green light for local licensing and regulation. The MMRSA should give clear legal guidance and approval to local lawmakers who were previously ambivalent about local licensing. Cities and counties can now be certain that licensed medical cannabis businesses and organizations are operating within the bounds of state law.
 3. There is no urgency to enact an ordinance licensing commercial medical cannabis cultivation before the March 1, 2016. As noted above, the inclusion of a deadline for adopting local cultivation regulations was included in AB 243 inadvertently. The current language in Section 11362.777 (c)(4) in AB 243, which includes the drafting error identified by Assembly Member Wood in the Assembly Journal, gives the BMMR authority to license medical cannabis cultivation in cities and counties that have not addressed commercial cultivation before March 1, 2016. While the deadline is likely to be removed from AB 243, cities and counties can adopt simple business licensing ordinances like ASA's model ordinance for commercial medical cannabis activity before March 1, 2016.
 4. Cities and counties can use existing business license and zoning laws to license commercial medical cannabis activity. Most jurisdictions already have adequate business license, zoning, and other land use laws that can be used for medical cannabis. There is no need to reinvent the wheel.
 5. Cities and counties do not have to develop complex regulatory schemes for commercial medical cannabis licensing. The BMMR will be doing that. The BMMR and other state agencies will begin writing comprehensive regulations in January of 2018. All state laws and regulations will be applicable to medical cannabis businesses and organizations licensed, permitted, or approved under local laws.
 6. Unlike illicit cultivation, licensed and regulated commercial medical cannabis cultivation can be easily monitored and policed. Licensed commercial medical cannabis cultivators operate in the open. That makes the job of regulators and law enforcement much easier. Cities and counties can expect greater transparency from licensed cultivators in areas like security, zoning, and environmental impacts.
 7. Licensed commercial medical cannabis cultivation can create jobs, generate tax revenue, and have other economic benefits for the community.

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Researchers from The ArcView Group, a cannabis industry investment and research firm based in Oakland, California, found that the U.S. market for legal cannabis grew 74 percent in 2014 to \$2.7 billion, up from \$1.5 billion in 2013. According to the *Washington Post*, the cannabis industry will be worth \$35 billion by 2020 – bigger than the National Football League and on par with the newspaper industry. That means jobs and tax revenue for local governments that take advantage of the new state licensing to authorize legal medical cannabis organizations and businesses.

Recommendation: License and regulate commercial medical cannabis cultivation instead of banning it. ASA’s model ordinance for commercial medical cannabis cultivation is a simple way to preserve local authority and secure the benefits of sensible licensing and regulation for patients, the community at large, and law enforcement.

Conclusion

ASA is committed to helping cities and counties find the best possible solution for licensing commercial medical cannabis activity, while protecting the interests and welfare of legal patients. We strongly believe that cities and counties should move forward with licensing, permitting, or approving medical cannabis activity pursuant to the MMRSA. Banning personal patient cultivation or commercial medical cannabis cultivation is harmful to legitimate patients. It may also deprive communities of the proven benefits of sensible regulation: reduced crime, fewer complaints, greater clarity for all stake holders (especially law enforcement), tax revenue, and more.

Please contact ASA California Director Don Duncan at don@safeaccessnow.org or (916) 449-3975 for more information.

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List of Tables:

- Table 1 – Timeline and Deadlines for MMRSA
- Table 2 –Types of State Licenses Under the MMRSA
- Table 3 – Summary of the Provisions of the MMRSA

- **Attachment – Open Letter from Assembly Member Jim Wood Regarding the March 1, 2016, Deadline for Local Ordinances Related to Commercial Medical Cannabis Cultivation**

Related Documents from ASA:

Sample Ordinance Licensing Commercial Medical Cannabis Cultivation

http://www.safeaccessnow.org/ca_local_cultivation_ordinance

Report: Where Will Medical Marijuana Patients Obtain Their Medicine?

<https://american-safe->

[access.s3.amazonaws.com/documents/dispensary_report_2015.pdf](https://american-safe-access.s3.amazonaws.com/documents/dispensary_report_2015.pdf)

Additional Resources from ASA:

http://www.safeaccessnow.org/resources_for_local_organizers

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Table 1 – Timeline and Deadlines in MMRSA

7/1/2015	Date by which those claiming vertical integration had to be operating a vertically integrated business. (AB 266 Section 19328 (c1))
1/1/2016	Date on which AB 266, AB 243 and SB 643 will take effect. (See the end of the legislative summaries in all three bills)
1/1/2016	Date by which cannabis businesses must be operating to be eligible for priority licensing. "In issuing licenses, the licensing authority shall prioritize any facility or entity that can demonstrate to the authority's satisfaction that it was in operation and in good standing with the local jurisdiction by January 1, 2016." [AB 266 Section 19321 (c)]
3/1/2016	Date by which cultivation must be regulated by a locality: "If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county." (AB 243 Section 19362.777(c)(4)) NOTE: According to the author, this provision was included as a result of a drafting error and will be removed.
1/1/2017	By January 1, 2017, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of facilities issued a license. (AB 266 Labor Code Amendment Sec. 7 147.5)
7/1/2017	By July 1, 2017, the advisory committee shall present to the board its findings and recommendations for consideration by the board. (AB 266 Labor Code Amendment Sec. 7 147.5)
7/1/2017	By July 1, 2017, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section. (AB 266 Labor Code Amendment Sec. 7 147.5)
1/1/2018	"A facility or entity that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter." (AB 266 Section 19321 (c))
1/1/2020	Not later than January 1, 2020, the Department of Food and Agriculture in conjunction with the Bureau, shall make available a certified organic designation and organic certification program for medical marijuana, if permitted under federal law and the National Organic Program. [SB 643 Section 19332.5(a)]
1/1/2022	Date by which the loan of up to \$10,000,000 from the general fund to establish the Medical Marijuana Regulation and Safety Act has to be repaid. If the fees collected by that time don't repay the loan, they will begin using funds that come from imposing penalties to repay the loan. [AB 243 Section 19351 (b) (1)]

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3/1/2023	Beginning on March 1, 2023, and on or before March 1 of each following year, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities and post the report on the authority's Internet Web Site. (AB 266 Section 19353)
1/1/2026	The date Type 10A Paragraph on licensing becomes inoperative "A Type 10A licensee may apply for a Type 6 or 7 state license and hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid... This paragraph shall become inoperative on January 1, 2026." [(AB 266 Section 19328 (a) (9))]
1/1/2026	Date vertical integration section of AB 266 is repealed. [AB 266 Section 19328 (d)]

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Table 2 – Types of State Licenses Under the MMRSA

Type 1	Cultivation; Specialty outdoor. Up to 5,000 square ft of canopy, or up to 50 noncontiguous plants.
Type 1A	Cultivation; Specialty indoor. Up to 5000 sq ft.
Type 1B	Cultivation; Specialty mixed-light. Using exclusively artificial lighting.
Type 2	Cultivation; Outdoor. Up to 5000 sq ft, using a combination of artificial and natural lighting.
Type 2A	Cultivation; Indoor. 5001 -10,000 sq ft.
Type 2B	Cultivation; Mixed-light. 5001 -10,000 sq ft.
Type 3	Cultivation; Outdoor. 10,001 sq ft - 1 Acre.
Type 3A	Cultivation; Indoor.. 10,001 - 22,000 sq ft.
Type 3B	Cultivation; Mixed-light. 10,001 - 22,000 sq ft.
Type 4	Cultivation; Nursery.
Type 6	Manufacturer 1 for products not using volatile solvents.
Type 7	Manufacturer 2 for products using volatile solvents.
Type 8	Testing.
Type 10	Dispensary; General.
Type 10A	Dispensary; No more than three retail sites.
Type 11	Distribution.
Type 12	Transporter.

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Table 3 – Summary of the Provisions of the MMRSA

CULTIVATION SIZE LIMITATIONS	The maximum allowable size is 1 acre (43,560 sq ft) outdoors (Type 3) or 22,000 sq ft indoors (Type 3A and 3B licenses). The DFA is directed to limit the number of Type 3, 3A and 3B licenses. [AB 243, 19332(g)].
VERTICAL INTEGRATION	There are complicated restrictions to prevent vertical integration (AB 266, 19328). In general, licensees can only hold licenses in up to two separate categories. Small cultivation licensee Types 1-2 may hold manufacturing or Type 10A retail licenses (limited to three dispensaries). It appears that Types 3-4 licensees can't apply for manufacturing licenses at all. However, Type 10A licensees can apply for both manufacturing and cultivation licenses, provided their total cultivation area doesn't exceed 4 acres. Also, facilities in jurisdictions that require or permit cultivation, manufacture, and distribution to be integrated as of July 1, 2015, may continue to operate that way until Jan 1, 2026.
DISTRIBUTORS REQUIRED	Type 11 distributors are a new kind of entity that has been created to regulate the flow of products. ALL cultivation and manufacturing licensees are required to send their products to a Type 11 licensee for quality insurance and inspection before passing them to the next stage of manufacturing or retailing. The Type 11 licensee in turn submits the product to a Type 8 laboratory for batch testing and certification. Afterwards, the sample returns to the Type 11 distributor for final inspection and execution of the contract between the cultivator and manufacturer or manufacturer and retailer. The Type 11 distributor charges a fee that covers the testing plus any applicable taxes (the Act doesn't impose any new taxes, but anticipates that could happen in the near future) (AB 266, 19326) Type 11 distributors and Type 8 testing facilities cannot hold any other kind of licenses (however, licensees may have their own labs for in-house testing).
LOCAL PERMITS REQUIRE	No person shall engage in commercial activity without BOTH a state license and a license, permit, or other authorization from their local government. (AB 266, 19320(a); AB 243, 11362.777 (b)).
LAWFUL ACTS	Actions by licensees that are permitted by both a state license and local government are lawful, and the licensee is protected from arrest, prosecution, or other legal sanctions (AB 266, 19317).
GRANDFATHERING	Facilities already operating in compliance with local ordinances and other laws on or before Jan 1, 2018 may continue to operate until such time as their license is approved or denied. [AB 266, 19321(c)]. Facilities in operation before Jan 1, 2016, shall receive priority. Los Angeles may in any case continue to prosecute violations of Measure D.

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APPLICANT QUALIFICATIONS (SB 643, 19322):	Applicants must provide proof of local approval and evidence of legal right to occupy any proposed location. Applicants shall submit fingerprints for DOJ background check. Cultivation licensees must declare themselves "agricultural employers" as defined by Alatore-Zenovich-Dunlap-Berman Agricultural Labor Relations Act. A licensing authority MAY deny an application if the applicant has been convicted of an offense substantially related to qualifications, including ANY felony controlled substance offense, violent or serious felonies, or felonies involving fraud, deceit or embezzlement, or any sanctions by a local licensing authority in the past 3 years [SB 643, 19323(a)(5)].
FOR-PROFIT ENTITIES	Are implicitly allowed under the qualifications established above. These were previously "not authorized" under SB 420, but the new licensing provisions extend to individuals, partnerships, corporations, business trusts, etc. [under the definition of "person" in AB266, 19300.5 (a)]. Likewise, applicants no longer need be patients.
CULTIVATION LICENSING	The DFA shall establish a medical cannabis cultivation program. All cultivation is subject to local land use regulations and permits. In cities and counties without cultivation regulations of their own, the state shall be the sole licensing authority as of March 1, 2016 [AB 243, 11362.777 (c)(4)]. <u>NOTE: According to the author, this provision was included as a result of a drafting error and will be removed.</u>
TRACK & TRACE PROGRAM	The DFA shall implement a unique identification program for all marijuana plants at a cultivation site, to be attached at the base of each plant. The information shall be incorporated into a "track and trace" program for each product and transaction [SB 643, 19335 and AB 243, 11362.777 (e)]. Cultivation in violation of these provisions is subject to civil penalties up to twice the amount of the license fee, plus applicable criminal penalties. Fines enacted daily for each violation (SB 243, 19360).
PATIENT EXEMPTION	Qualified patients are exempt from the state permit program if cultivating less than 100 square feet for personal medical use. Primary caregivers with five or fewer patients are allowed up to 500 square feet [AB 243, 11362.777(g) and SB 643, 19319]. Exemption under this section does not prevent a local government from further restricting or banning the cultivation, provision, etc. of medical cannabis by individual patients or caregivers in its jurisdiction (AB 243).
DELIVERIES	Cannabis may be delivered to qualified patients only by dispensaries and only in cities or counties where not prohibited by local ordinance. All deliveries are to be documented. No locality can bar transport of delivered products through its territory. Local county may tax deliveries. (AB 266, 19340). {In a separate section [19334 (a) 4] it is confusingly stated that dispensers who have no more than three dispensaries (Type 10A) shall be allowed to deliver "where expressly authorized by local ordinance." It's unclear what conditions if any apply to other, Type 10 licensed dispensers.}
MANUFACTURERS	Manufacturers are to be licensed by DPH. The DPH shall limit the number of Type 7 licenses that produce products using volatile solvents.

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TESTING (AB 266, 19341-6)	The DPH shall ensure that all cannabis is tested prior to delivery to dispensaries or other businesses, and specify how often such testing shall be conducted. [Confusingly, 19346(c) says the costs of testing are to be paid by cultivators, whereas 19326(c) (3) states that distributors shall charge for the costs of testing; since distributors serve manufacturers as well as cultivators, it doesn't make sense that testing costs for the former should be charged to the latter.] Licensees shall use standard methods established by International Organization for Standardization approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement (AB 266, 19342). Licensees shall test for cannabinoids, contaminants, microbiological impurities, and other compounds spelled out in Section 19344. Licensees may conduct tests for individual qualified patients, but not certify products for resale or transfer to other licensees.
SCHOOL ZONES	Cultivation and dispensary facilities must be at least 600 ft from schools (with grandfathered exceptions specified in HSC 11362.768). [SB 643, 19322 (a) 4]
TRANSPORTATION	Only licensed transporters can transport cannabis or cannabis products between licensees [AB 266, 19326(a)]. The bill doesn't specify whether cultivators, manufacturers, or retailers can also have transport licenses, but 19328 (a) states they can generally have at most two separate kinds of licenses. Licensed transporters shall transmit an electronic shipping manifest to the state and carry a physical copy with each shipment (SB643, 19337).
LABOR PEACE AGREEMENTS	Labor peace agreements are required of all applicants with 20 employees or more (SB 643, 19322 a (6))
PACKAGING	Products shall be labeled in tamper-evident packages with warning statements and information specified in Section 19347.
PRIVACY	Identifying names of patients, caregivers, and medical conditions shall be kept confidential. (AB 266, 19355)
SB 420 COLLECTIVE DEFENSE SUNSET	The provision in SB 420 affording legal protection to patient collectives and cooperatives, HSC 11362.775, shall sunset one year after the Bureau posts a notice on its website that licenses have commenced being issued. After that date, all cannabis collectives will have to be licensed, except for individual patient and caregiver gardens serving no more than five patients.
PHYSICIAN RECOMMENDATIONS (SB 643):	<p>There are several new provisions clarifying the duties of medical cannabis physicians; however, they don't substantially affect or impair patients' current access to medical recommendations.</p> <ul style="list-style-type: none"> • The Med Board's enforcement priorities are amended to include "Repeated acts of clearly excessive recommending of cannabis for medical purposes, or repeated acts of recommending without a good faith prior exam." (SB 643, 2220.05). This is identical to existing language regarding controlled substances, which has generally been assumed to apply to MMJ heretofore. • It is unlawful for physicians who recommend to accept, solicit, or offer remuneration to or from a licensed facility in which they or a family member have a financial interest. • The Med Board shall consult with the California Center for Medicinal Cannabis Research in developing medical guidelines for MJ recs.

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	<ul style="list-style-type: none"> • The recommending person shall be the patient's "attending physician" as defined in HSC 11362.7(a). Contrary to popular misconception, this in nothing new and in no way limits patients to their primary care physician. It merely restates current language in SB 420. • Physician ads must include a warning notice that MMJ is still a federal Schedule I substance.
PESTICIDE STANDARDS	Pesticide standards shall be promulgated by DFA and the Dept. of Pesticide Regulation (SB643, 19332).
ORGANIC CERTIFICATION	Organic certification will be made available by DFA by Jan 1, 2020, federal law permitting. [SB643, 19332.5(a)]
APPELLATIONS OF ORIGIN	The bureau MAY establish appellations of origin for cannabis grown in California. No product may be marketed as coming from a county where it was not grown. [SB643, 19332.5(b-d)]
FEES and FUNDING	Each licensing authority shall establish a scale of application, licensing and renewal fees, based upon the cost of enforcement. Fees shall be scaled dependent on the size of the business [AB 243, 19350 (c)]. A Medical Marijuana Regulation and Safety Act Fund is established in the state treasury to receive fees and penalties assessed under the act. \$10 million is allocated to DCA to begin operations, with the possibility of an additional operating loan of \$10 million from the General Fund (AB 243, 19352). The Bureau shall use the fund for a grant program to assist state and local agencies in enforcement and remediation of environmental impacts from cultivation. (AB 243, 19351)
COUNTY TAXATION	Counties may levy a tax on the cultivating, dispensing, producing, processing, distributing, etc., of medical cannabis subject to standard voter approval requirements. (Many cities already exercise this authority, but the authority of counties to do so has been unclear heretofore). (SB 643, 19348)

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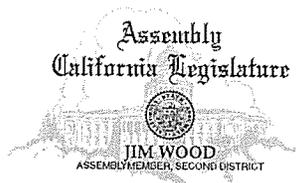
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The Marijuana Regulation and Safety Act's March 1st Deadline

An open letter to County and City Government Officials:

Like many of my colleagues, I began my public service career at the local level where decisions made in Sacramento often have a profound impact on the decisions we make in our communities. Over the past several weeks, I have learned that cities and counties are scrambling to put regulations regarding medical marijuana in place ahead of a March 1st deadline that was inadvertently included in AB243 of the Medical Marijuana Regulation and Safety Act (MMRSA). As a former local elected I understand this reaction. However, I am writing this letter to clarify some of the confusion that has resulted from the inclusion of the March 1st deadline in the MMRSA.

The MMRSA will bring a multi-billion dollar industry that has grown up largely in the shadows into the light. Ultimately, the goal is to provide Californians with the legal, consumer, and environmental protections we have come to expect from any other industry.

During the scramble at the end of the legislative session this year, an inadvertent drafting error placed a deadline on local jurisdictions, requiring them to adopt their own land use regulations for medical cannabis cultivation by March 1, 2016, or turn that responsibility over to the state. As soon as I was aware of the error I published a letter in the Assembly Journal, the official record of the Assembly, declaring my intention to pass urgency legislation as soon as the legislature reconvenes in January. The compromise agreement with the Governor's office did not include the March 1st deadline and this urgency legislation will ensure that the MMRSA's legislative intent is not altered. I have already amended one of my bills with language that will strike the deadline and maintain a local jurisdiction's ability to create their own regulations. As an urgency measure, the law will go into effect as soon as it is signed by the Governor.

My intent to remove the deadline has bi-partisan and stakeholder support. The Governor's office is prepared to partner with my office to ensure local control on this issue. I appreciate the Governor's acknowledgement of this drafting error and his office's willingness to work with me to quickly resolve the problem. Even if my urgency measure is not signed until after March 1st,

National Office

1806 Vernon St. NW, Suite 300, Washington DC 20009
 PHONE: 202.857.4272 FAX: 202.857.4273

California Office

770 L Street, Suite 950, Sacramento, CA 95814
 PHONE: 916.449.3975

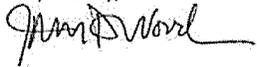
General Information

WEB: www.AmericansForSafeAccess.org
 TOLLFREE: 888-929-4367

the Bureau of Medical Marijuana Regulation (BMMR), the entity responsible for developing the State's regulations, currently exists on paper only. It will be many months before the Bureau has the capacity to develop and enforce statewide regulations. Additionally we have received legal feedback confirming that once my urgency measure is in effect jurisdictions will retain the local control they need.

I am confident that my colleagues and I will eliminate the March 1st deadline before it becomes a realistic problem as opposed to a theoretical concern for local lawmakers.

Respectfully,



JIM WOOD
ASSEMBLYMEMBER, 2ND DISTRICT

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General Information

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Gary McCarthy

From: Gary McCarthy
Sent: Tuesday, December 29, 2015 3:33 PM
To: Gary McCarthy
Subject: FW: Ordinance in Response to Medical Marijuana Regulation and Safety Act
Attachments: Model Cannabis Delivery Language Local Ord v3.docx; Eaze Background for Cities.pdf

From: Elizabeth Conway [mailto:econway@gidellc.com]
Sent: Wednesday, December 16, 2015 11:33 PM
To: Michael Morasco <Mmorasco@escondido.org>; Olga Diaz <Odiaz@escondido.org>; John Masson <jmasson@escondido.org>; Ed Gallo <egallo@escondido.org>; Jeffrey Epp <Jepp@escondido.org>
Subject: Ordinance in Response to Medical Marijuana Regulation and Safety Act



Dear Council Members,

Cities across California are taking a close look at their medical marijuana ordinances following the passage of the Medical Marijuana Regulation and Safety Act (MMRSA). I represent a **technology firm that enables the safe delivery of medical cannabis from compliant medical cannabis dispensaries to patients possessing a verified medical marijuana recommendation**, I am asking for your consideration as you craft a thoughtful delivery ordinance for your city.

Over the past 4 months, Eaze has taken time to speak with state and local law enforcement, the Governor, the State Board of Equalization, and public officials throughout the state about our technology and the difference it can make to communities and to patients.

As your city thinks about your ordinance, please keep in mind:

- Bans on medical cannabis businesses eliminate tax revenue that helps pay for education and enforcement against illegal activity.
- Allowing licensed, regulated medical cannabis businesses disrupts and discourages illicit activity; communities become safer when patients have legal purchasing channels.
- Banning medical cannabis deliveries means homebound patients with conditions including epilepsy, HIV/AIDS, cancer, and MS will have limited if any access to their medication.
- Technology is making the delivery process safe and transparent, ensuring that only the patient or the primary caregiver receives the medication, and that there is no chance of diversion between the licensed dispensary and the patient.

It was not the legislature's intent to have cities rush to ban cannabis activity or lose their right to do so forever. A rush to eliminate legitimate cannabis businesses is not a wise move for the health or safety of your community.

I have attached model ordinance language and additional information on Eaze.

We encourage you to craft an ordinance that requires responsible delivery, using safe vehicles, licensed drivers with background checks, allowing delivery only from licensed dispensaries (whether in or out of your city), with patient

identification and medical recommendation validated prior to any delivery initiation, real time vehicle GPS tracking, and validated shipping records showing what product was delivered where and when.

These elements all tie back to safety and trust. Eaze has employed some of the best developers and public policy experts to design software that fulfills these requirements and more.

I would like the chance to introduce how we support trust and safety through technology to you in depth. If a meeting or a presentation to the Council is possible, please reach me at econway@gidellc.com, or by calling 202-750-2021 extension 1.

Sincerely,

Elizabeth Conway
Gide Public Affairs representing Eaze Solutions
econway@gidellc.com
www.gidellc.com

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Model Cannabis Delivery Local Ordinance Proposed Language

"Delivery" means the commercial transfer of medical marijuana or medical marijuana products from a dispensary, to a primary caregiver or qualified patient, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned or controlled by the dispensary, or independently licensed, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical marijuana or medical marijuana products.

"Dispensary" means a facility where medical marijuana, medical marijuana products, or devices for the use of medical marijuana are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical marijuana and medical marijuana products as part of retail sale.

Transportation and delivery of medical marijuana.

- A. It shall be unlawful for any person to transport medical marijuana, except as specifically allowed by this [Chapter] and State law. Transport or delivery activities shall comply with all of the following:
- B. All medical marijuana-infused products are securely packaged, sealed and labeled, and the products stored in closed containers that are labeled as provided in this [Section].
- C. All medical marijuana in a usable form for medicinal use is packaged and stored in closed containers that are labeled as provided in this [Section].
- D. Each container used to transport or deliver medical marijuana is labeled with the amount of medical marijuana or medical marijuana-infused products, or the number and size of the plants, in the container. The label shall include the name and address of the medical marijuana business that the medical marijuana is being transported or delivered from and the patient ID number of the individual that the medical marijuana is being transported to. The label shall be shown to any law enforcement officer who requests to see the label.
- E. An individual transporting medical marijuana items must have a valid California Driver's License and shall use a vehicle for transport that is:
 - a. insured at or above the legal requirement in California
 - b. capable of securing (locking) the medical marijuana during transportation and
 - c. capable of being temperature controlled if perishable medical marijuana is being transported.
- F. Delivery Approval.
 - a. The medical marijuana dispensary must specify home delivery services in its application for a Conditional Use Permit and the Conditional Use Permit shall set forth conditions related to the home delivery service.
- G. Bona Fide Orders.
 - a. The bona fide order must contain:
 - i. The individual requestor's Patient or Caregiver ID number, the date delivery is requested and the address of the residence where the individual would like the items delivered;
 - ii. A document that describes the marijuana proposed for delivery and the amounts; and
 - iii. A written statement that the marijuana is for medical use only and not for the purpose of resale.
- H. Delivery Requirements.
 - a. Deliveries must be made before 2:00 a.m. local time and may not be made between the hours of 2:00 a.m. and 7:00 a.m. local time;
 - b. The medical marijuana dispensary may only deliver to the individual who placed the bona fide order.

Backgrounder



Overview of Eaze's Trusted Delivery Platform

Eaze is an on-demand technology platform that enables patients with a verified medical marijuana recommendation to access compliant medical cannabis dispensaries and obtain safe home delivery. Eaze has been operating safely and successfully in California since July 2014. As cities try to balance California's new regulatory framework with voter-approved legal medical cannabis use, Eaze's solution is setting new standards for public safety, law enforcement support, technological innovation, customer experience, legal compliance, and transaction transparency.

Key Features

1. Eaze does not cultivate, distribute or deliver medical marijuana.
2. Eaze works only with medical cannabis dispensaries (MCDs) that are compliant with the California Compassionate Use Act (Proposition 215), the California Medical Marijuana Program Act (SB 420) and applicable local regulations.
3. Eaze is not a third party delivery service. We do not work with ride-share, taxis, or couriers. Eaze provides a technology service that enables patients to contact and schedule deliveries directly from MCDs.
4. Eaze is not a financial party to medical cannabis transactions. Eaze does not collect or process payments for medical cannabis transactions.
5. Eaze's solutions include multiple levels of verification and validation. Patient medical marijuana recommendations and identification are verified for accuracy and legitimacy *before any patient-dispensary order can occur*.
6. Eaze's technology allows dispensary deliveries to be tracked **in real-time** to ensure safe, delivery to the actual patient and to prevent inventory diversion.
7. Eaze is HIPAA-compliant and uses encryption to keep all data secure.

Benefits of the Eaze Solution

Public policy experts assert technology driven medical marijuana delivery models have significant community benefits including:

1. Safe access to critical services and medicines for immobile patients.
2. Reduction of illegal marijuana activity and loss of state and local tax revenues.
3. Reduction of improper distribution due to enhanced verification and validation processes.
4. Reduction of medical marijuana storefronts and dispensaries

Company Information

Founded in 2013 by CEO Keith McCarty in San Francisco
www.eazeup.com

Contact

Eaze Headquarters
540 Howard Street
San Francisco, CA
94105

Public Affairs:

Liz Conway
(510) 712-7739
econway@gidellc.com

Patient Safety

Law Enforcement Safety

Public Safety

Transparency

Legal Compliance

Gary McCarthy

From: Gary McCarthy
Sent: Tuesday, December 29, 2015 3:34 PM
To: Gary McCarthy
Subject: FW: Medical Marijuana
Attachments: Personal Cultivation Ordinance - San Diego.pdf; Model_cultivation_ordiannce_CA.pdf

From: Terrie Best [<mailto:ilegalsmile@hotmail.com>]
Sent: Tuesday, December 15, 2015 1:44 PM
To: Ed Gallo
Subject: Medical Marijuana

Dear Honorable Council Member,

I'm writing on behalf of the San Diego Chapter of Americans for Safe Access. We are a nation-wide medical marijuana patient advocacy group. As a patient advocate in the County of San Diego I am writing to ask that you please not ban the cultivation of medical marijuana in your city.

This issue is very important to me and many of your constituents. If the city bans cultivation for personal use the city will be cutting off access to a medicine that allows patients to live a better life.

The time has come for the City to comprehensively regulate cultivation of medical marijuana. As such, we have enclosed two draft ordinances for your consideration. One is an ordinance that regulates commercial cultivation of medical marijuana. The other regulates simple personal cultivation in one's own home and has been adopted by the city of San Diego. Please keep in mind simply banning and removing safe access to medicine does not eliminate, or even lessen, demand in your city. It only fosters a lawless market and reduces public safety. Further, by refusing to consider commercial regulation, the city is closing the door on a real and viable economic development opportunity that will create a stable source of revenue while supporting the creation of good, middle class jobs.

To put it simply, banning cultivation by qualified patients and licensed providers strengthens the black market and harms seriously ill patients. We urge you to reject prohibition in favor of engaging in a thoughtful and meaningful discussion about how to properly regulate the cultivation of medical marijuana. When properly done, regulation will serve to eliminate the black market, fund important city priorities, and ensure patient access.

San Diego ASA will be watching this issue carefully as will our constituents. Most Californians know the time for regulating this huge industry has come. We are counting on your leadership to protect patients and public safety by regulating medical marijuana in your city.

Sincerely,

Terrie Best

Chapter Chair

San Diego Americans for Safe Access

619-651-706

Article 2: Health Regulated Businesses and Activities

Division 13: Medical Marijuana Regulations: Patients and Caregivers

(“San Diego Medical Cannabis Voluntary Verification Card Program” added 2-25-2002 by O-19036 N.S.

(Retitled to “Medical Marijuana Regulations: Patients and Caregivers” and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1301 Purpose and Intent

- (a) It is the intent of the Council to adopt regulations consistent with California Health and Safety Code section 11362.5 (Compassionate Use Act) and California Health and Safety Code sections 11362.7-11362.83 (Medical Marijuana Program), to protect the public health, safety, and welfare.
- (b) Nothing in this Division is intended to override a peace officer’s judgment and discretion based on a case-by-case evaluation of the totality of the circumstances, or to interfere with a peace officer’s sworn duty to enforce applicable law.
- (c) Nothing in this Division is intended to reduce the rights of a *qualified patient* or *primary caregiver* otherwise authorized by California Health and Safety Code section 11362.5(d).
- (d) This Division shall be interpreted in a manner consistent with state law. Nothing in this Division is intended to authorize the sale, distribution, possession of *marijuana*, or any other transaction, in violation of state law.

(Amended 9-29-2003 by O-19218 N.S.)

(Amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1302 Definitions

For the purpose of this Division the following definitions shall apply and appear in italicized letters:

Marijuana has the same meaning as in California Health and Safety Code section 11018.

Primary caregiver means the individual designated by the *qualified patient* who has consistently assumed responsibility for the housing, health, or safety of the *qualified patient*, in accordance with state law, including California Health and Safety Code section 11362.5. As explained in *People v. Mentch*, 45 Cal. 4th 274 (2008), a *primary caregiver* is a person who consistently provides caregiving to a *qualified patient*, independent of any assistance in taking medical *marijuana*, at or before the time he or she assumed responsibility for assisting with medical *marijuana*.

Processed marijuana means harvested *marijuana* that is in a form other than a live plant.

Qualified patient means a California resident having the right to obtain and use *marijuana* for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of *marijuana* in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which *marijuana* provides relief in accordance with state law, including California Health and Safety Code section 11362.5.

SDPD means the City of San Diego Police Department.

State identification card means the card issued to a patient or caregiver in accordance with California Health and Safety Code sections 11362.71-11362.76.

(Amended 9-29-2003 by O-19218 N.S.)

(Amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1303 State Identification Card Holders: Permissible Amounts of Marijuana

A person in possession of a current and valid *state identification card* and who is within the jurisdictional limits of the City, is not subject to arrest by the *SDPD* for possession of *marijuana*, or detention by the *SDPD* longer than necessary to verify his or her status, or seizure by the *SDPD* of *marijuana* in his or her possession, if the amount of *marijuana* possessed is within the following limits:

(a) *Processed Marijuana - Qualified Patients.*

An individual who is a *qualified patient* may possess the total amount of *processed marijuana*, regardless of growing method, recommended by his or her physician for the length of time recommended by the physician, not to exceed one pound, or an amount consistent with the physician's recommendation, whichever is less.

(b) *Processed Marijuana - Primary Caregivers.*

An individual who is a *primary caregiver* may possess no more than the amount specified in section 42.1303(a) for each *qualified patient* for whom the individual serves as a verified *primary caregiver*, except that such amount shall not exceed two pounds, or an amount consistent with the physician's recommendation, whichever is less.

(c) *Indoor Plants - Qualified Patients.*

A *qualified patient* may possess a maximum of twenty-four unharvested *marijuana* plants growing in an area of no more than 64 square feet, or an amount consistent with the physician's recommendation, whichever is less.

(d) *Indoor Plants - Primary Caregivers.*

A *primary caregiver* may possess no more than the amount of *marijuana* specified in section 42.1303(c) and growing in the space specified in 42.1303(c), for each *qualified patient* for whom the individual serves as a *primary caregiver*, not to exceed a total of ninety-nine plants, or an amount consistent with the recommendation of the physician or physicians, whichever is less.

(e) *Outdoor/Greenhouse Plants.*

No unsupervised outdoor *marijuana* cultivation shall be permitted. Growing *marijuana* shall only be permitted in a fully enclosed yard with a minimum six-foot fence perimeter or a greenhouse or structure that must be locked and contained. The amount of *marijuana* grown in the enclosed yard with a minimum six-foot fence perimeter or greenhouses or structures that are locked and contained shall not exceed the permissible amounts for indoor plants according to sections 42.1303(c) and 42.1303(d).

(f) Possession of *marijuana* in amounts which exceed those set forth in section 42.1303(a)-(d) by persons with *state identification cards* will be evaluated by *SDPD* on a case-by-case basis according to the totality of the circumstances, taking into account facts such as whether the amount possessed is consistent with a physician's recommendation.

(Renumbered from former Section 42.1308, retitled to "State Identification Card Holders: Permissible Amounts of Marijuana" and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011. Former Section 42.1303 repealed.)

§42.1304 Smoking

Qualified patients, including those with *state identification cards*, are prohibited from smoking *marijuana* in any public place or in any place open to the public. Any person who violates this section is guilty of an infraction.

(Renumbered from former Section 42.1313, and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011. Former Section 42.1304 repealed.)

Model Local Cultivation Licensing Ordinance - CA

This simple draft ordinance authorizes commercial medical cannabis cultivation using the existing city or county business license process and sets some basic security standards for indoor and outdoor cultivation. The ordinance protects staff, operators, and landlords at licensed grows; allows cultivation in commercial and agricultural zones; and exempts individual patients and caregivers from licensing requirements.

___ Purposes.

The purposes and intents of this Chapter are to:

- a) Regulate commercial medical cannabis cultivation in a manner that is consistent with State law and which promotes the health, safety, and general welfare of the residents and businesses in <name of local jurisdiction>;
- b) Provide clear guidance to law enforcement, regulators, license holders, and the community at large as to what is legally permitted in <name of local jurisdiction> in relation to commercial medical cannabis cultivation; and
- c) Protect the rights and welfare of Qualified Patients or their designated Primary Caregivers who cultivate medical cannabis for the personal medical use of the Qualified Patient in accordance with the Compassionate Use Act and the Medical Marijuana Program Act.

Nothing in this Chapter shall be construed to allow:

- a) Persons to engage in conduct that endangers others or causes a public nuisance;
- b) The use or diversion of marijuana for nonmedical purposes; or
- c) Any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under State law.

___ Findings.

- a) There is a legitimate need for medical cannabis in California. A study published in 2014 shows that 1.4 million Californians have used medical cannabis and an overwhelming majority of those users (92%) believe cannabis helped treat the symptoms of a serious medical condition (“Prevalence of medical marijuana use in California, 2012”, *Drug and Alcohol Review* (2014), DOI 10.1111/dar. 12207).
- b) According to that research, more than 30% used medical cannabis to treat chronic pain, 11% used it for arthritis, 8% for migraines, and 7% for cancer. Participants also reported using medical cannabis to treat the symptoms of AIDS, glaucoma, muscle spasms, nausea, stress, and depression. Researchers found that medical cannabis was used at similar rates by men and women, the young and the old, patients with high and low levels of education, and in various regions of the state.
- c) The voters of the State of California approved Proposition 215, the Compassionate Use Act of 1996 (codified as Health and Safety Code Section 11362.5), in 1996. That Act calls on “federal and state governments to implement a plan to provide for the safe and affordable distribution of

Model Local Cultivation Licensing Ordinance - CA

- marijuana to all patients in medical need of marijuana.”
- d) The State enacted the Medical Marijuana Program Act (codified as Health and Safety Code Section 11362.7 et seq.) in 2004 to clarify the scope of The Compassionate Use Act of 1996, facilitate the prompt identification of qualified patients and primary caregivers, avoid unnecessary arrest and prosecution of these individuals, provide needed guidance to law enforcement officers, promote uniform and consistent application of the Act, and to allow local governing bodies to adopt and enforce rules and regulations consistent with the Act.
 - e) The State enacted three bills, which comprise the Medical Marijuana Regulation and Safety Act (MMRSA), in 2015. AB 243, AB 266, and SB 643, create statewide licensing and regulations for the lawful cultivation, manufacturing, distribution, transportation, sales, and testing of medical cannabis in the state.
 - f) The MMRSA requires local governments to license, permit, or approve commercial medical cannabis as a prerequisite for state licensing, including the commercial cultivation of medical cannabis. Therefore, local licensing of medical cannabis cultivation is an essential part of ensuring an adequate supply of safe and legal medicine for legitimate patients to use.
 - g) Local governments retain broad discretion in regulating the time, place, and manner of commercial medical cannabis cultivation within their jurisdiction under the MMRSA.
 - h) The American Herbal Products Association (AHPA), the leading voice in herbal products industry, published recommendations for regulators regarding medical cannabis cultivation and other activity in 2014. These recommendations show that the indoor and outdoor commercial cultivation of medical cannabis can be conducted in a manner that is safe, secure, and sustainable.
 - i) Research conducted by Americans for Safe Access (ASA), the nation’s leading medical cannabis patient advocacy organization, show that sensible regulations for medical cannabis preserve safe and legal access for legitimate patients, while reducing crime and complaints in neighborhoods.

— Definitions.

- a) “Commercial Medical Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Marijuana Regulation and Safety Act (MMRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5).
- b) “Commercial Medical Cannabis Cultivators License” means a business license for Commercial Medical Cannabis Cultivation in <name of jurisdiction> issued pursuant to the Chapter

Model Local Cultivation Licensing Ordinance - CA

- c) "Indoor Cultivation" means Commercial Medical Cannabis Cultivation inside a building using exclusively artificial light.
- d) "Mix Light Cultivation" means Commercial Medical Cannabis Cultivation indoors or outdoors using a combination of artificial and natural light.
- e) "Outdoor Cultivation" means Commercial Medical Cannabis Cultivation outdoors using exclusively sunlight.
- f) "Primary Caregiver" has the same definition as in Section 11362.7 of the California Health and Safety Code.
- g) "Qualified Patient" has the same definition as in Section 11362.5 of the California Health and Safety Code.

____ **Local Licenses and Approvals Required.**

- a) Beginning *<effective date of local licensing requirement>*, no person shall engage in Commercial Medical Cannabis Cultivation in *<name of jurisdiction>* without first obtaining a Commercial Medical Cannabis Cultivators License.
- b) A Commercial Medical Cannabis Cultivators License shall be issued by the *<name of city/county agency issuing license>* pursuant to the provisions of *<city/county code section specifying ordinary licensing process>*.
- c) A Commercial Medical Cannabis Cultivators License shall be valid for one year and renewable annually thereafter.
- d) The *<name of city/county agency issuing license>* may revoke a Commercial Medical Cannabis Cultivators License for violations of state and local law, including the provisions of the Chapter, pursuant to the procedures in *<city/county code section specifying ordinary process for suspending business licenses>*.
- e) A Commercial Medical Cannabis Cultivators License holder shall also obtain all ordinary building permits, licenses, clearances, and approvals required for manufacturing or agricultural use at the address or parcel where medical cannabis cultivation is lawfully permitted pursuant to this Chapter.
- f) The actions of a Commercial Medical Cannabis Cultivators License holder, its employees, and its agents that are permitted pursuant to the Chapter and conducted in accordance with the requirements of this Chapter are not unlawful and shall not be an offense subject to arrest, prosecution, or other sanction.
- g) The actions of a person who, in good faith, allows his or her property to be used by a Commercial Medical Cannabis Cultivators License holder, its employees, and its agents, as permitted pursuant to the Chapter, are not unlawful and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine.

____ **State License Required.**

- a) A Commercial Medical Cannabis Cultivators License holder shall obtain all state licenses and permits required under the Medical Marijuana Regulation and Safety Act (MMRSA), as amended from time to time, and any subsequent

Model Local Cultivation Licensing Ordinance - CA

state licensing or regulations duly adopted and enacted by the State or an authorized regulatory body.

- b) Notwithstanding the provisions of Section (a), no state license or permit shall be required if state licenses are not yet available pursuant to the Medical Marijuana Regulation and Safety Act or the availability or validity of state licenses pursuant to the Medical Marijuana Regulation and Safety Act is interrupted, suspended, or revoked for any reason.

___ **Approved Zones.**

- a) A Commercial Medical Cannabis Cultivators License may be issued in any zoning district approved for manufacturing or agriculture.
- b) No Commercial Medical Cannabis Cultivators License shall be issued for any property that is located within six hundred feet of a public or private school (K-12).

___ **Security.**

- a) Licensed Indoor Cultivation shall be conducted in a secured facility that is monitored at all times. Security equipment shall include, but not necessarily be limited to:
 - 1) Locking doors and windows,
 - 2) A remotely monitored alarm system that is operational at any time that the structure is not occupied by authorized persons,
 - 3) Video recording equipment and lighting that is sufficient to recognize an individual's face in the facility, and
 - 4) Video recording equipment that can store video recordings for up to seventy-two hours and download recordings onto a permanent storage device, as needed.
- b) Parcels on Outdoor Cultivation or Mixed Light Cultivation are conducted must be secure. Security equipment shall include, but not necessarily be limited to, a fence surrounding the plants of not less than six feet in height with a locking gate.
- c) No medical cannabis shall be cultivated in any structure or on any parcel if the medical cannabis plants are visible from any public place.
- d) A Commercial Medical Cannabis Cultivators License holder shall maintain adequate security at all times to prevent burglary, robbery, diversion of medical cannabis for unlawful use, and nuisance activity in the immediate vicinity.
- e) Any security personnel employed by or contracted by at Commercial Medical Cannabis Cultivators License holder shall, at a minimum, possess a valid Guard Card issued by the California Department of Consumer Affairs.

___ **Qualified Patients and Primary Caregivers Exempted.**

A Qualified Patient or Primary Caregiver cultivating medical cannabis for five or

Model Local Cultivation Licensing Ordinance - CA

fewer Qualified Patients shall not be subject to the provisions of this Chapter, provided that (1) all of the medical cannabis cultivated is for the personal medical use of the patient for whom it is cultivated, and (2) the Primary Caregiver only receives compensation for actual expenses, including reasonable compensation for services provided to a Qualified Patient to enable that person to lawfully use medical cannabis pursuant to State law, or for payment for out-of-pocket expenses incurred in providing those services in full compliance with Section 11362.765 of the California Health and Safety Code.

___ **Severability.**

The provisions of this Chapter 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.

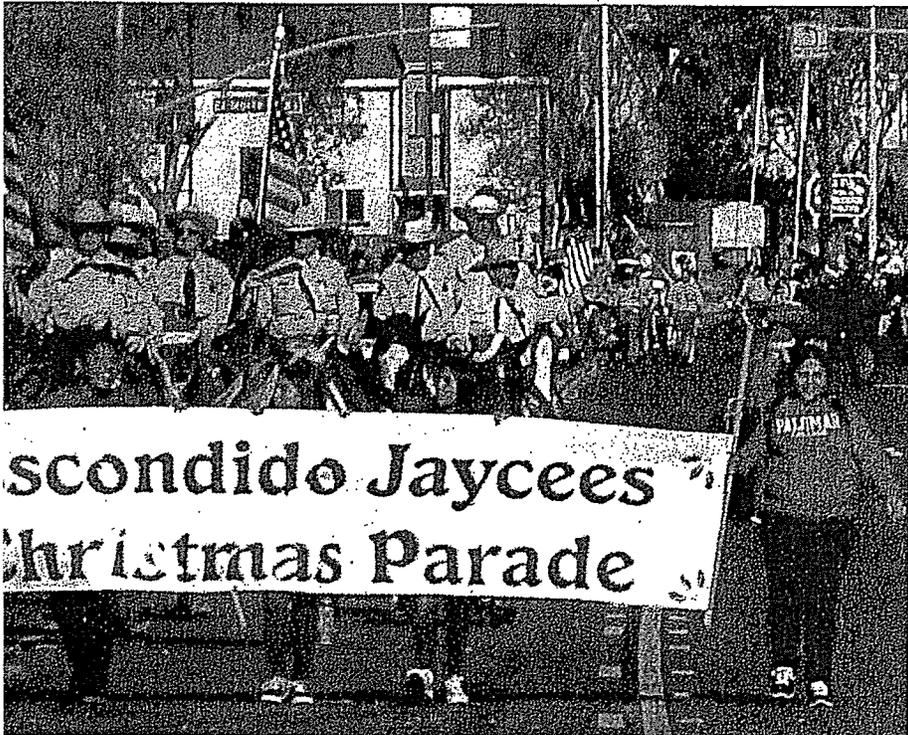
Sample

TIMES-ADVOCATE

ving Escondido, San Marcos, Valley Center

December 17, 2015

Number 9



Escondido Jaycees Christmas Parade

... brought mounted units, drill teams, flag twirlers, antique fire engines, politicians including Marie Waldron, Councilmen Ed Gallo and John Masson, a Salvation Army Band and vintage roadsters around, and at least one trailer-float that employed the theme of the parade: Scouts and their leaders wearing superhero costumes and flexing bulging fake muscles. The Escondido Christmas parade is the longest running community event in North San Diego County. The parade started at Escondido High School and headed down Broadway to Grape

... more photos, continue to page 6.

Photo by Doug Green.

Medical marijuana collective gets VC building permit

By DOUG GREEN

A business called North County Natural applied for a permit to begin setting up a Medical Marijuana Collective at 8530 Nelson Way in Valley Center earlier this month. Nelson Way runs east from Old Highway 395, near the I-15 Freeway.

The permit allows the 1,700 square foot single family home at the property to be converted into a business. The building permit allows some partitions for an office area, a dispensary area, two restrooms, a kitchenette and a lobby. It also calls for the replacement of windows with shatter-proof glass and the addition of steel doors.

Oliver Smith, chairman of the Valley Center Community Planning Group, learned of the permit, contacted the county building division about the marijuana collective and asked several pertinent questions via email.

Vince Nicoletti, chief of the Building Division's Planning & Development Services responded, "I understand a medical marijuana collective is a sensitive activity for all communities and we are happy to answer any questions we can."

Smith's first question was about the "ministerial," as opposed to discretionary, nature of the application.

See MARIJUANA, Page 10

Blight will turn into new shopping center

By DOUG GREEN

The Escondido City Council gave final



COMMUNITY NEWS

MARIJUANA — from Page 1

Nicoletti wrote back that granting the permit was ministerial rather than discretionary because the changes met all of the county's requirements for the building and property, and that "approval of a Site Plan is not required if the alterations to the interior of the structure are not visible from the outside," according to the law.

Smith then asked, "What are the permit limitations, if any, regarding the impact to adjacent residential properties?"

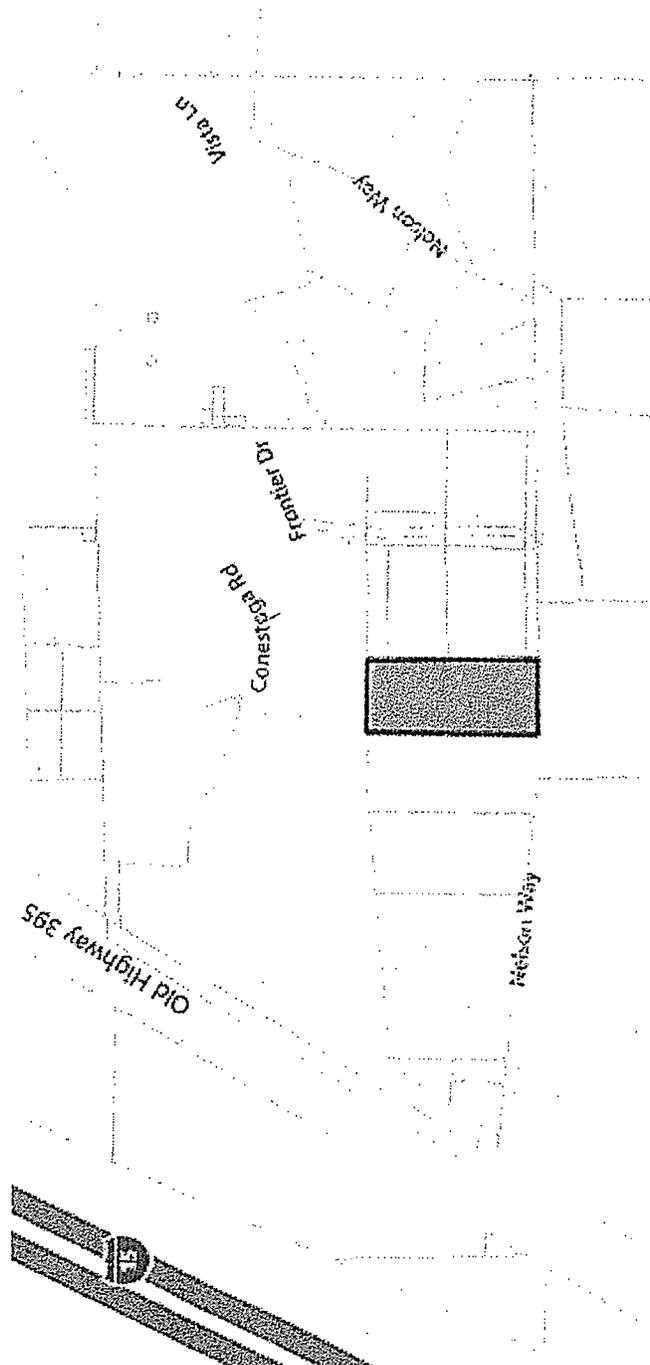
Nicoletti also said the statutes would not allow an additional collective facility to be allowed within a 1,000-foot radius of the property at 8530 Nelson Way.

Despite the residence on it, the property is zoned for "limited-impact" industrial use.

Smith asked if the Valley Center substation would handle any permits and Nicoletti referred him to officials of the Sheriff's License & Criminal Registration Division in Kearny Mesa.

Smith told the Times-Advocate that because of public meeting laws, the matter could not be discussed at last Monday's meeting of the VCCPG. He also acknowledged that any action of the planning committee had been superseded by the county permit.

A call to the permit holder, North County Natural, was not returned until last Monday afternoon.



A representative of the project called the Times-Advocate to decline comment, only saying that "if anything does happen there, it's going to be quite a few months away."

Smith said the next community planning meeting on Monday, Jan. 11, would offer an open forum on the Medical Marijuana Collective at Valley Center Community Hall, 28246 Lilac Road.

The forum would "provide an opportunity for the community to be involved, yet keep the proceedings civil, if not courteous. Blunting flaming rhetoric is

a major element of this," Smith wrote.

"If it were to be an adjacent property to where I live, I would definitely want the opportunity to directly ask questions of these groups and hear their answers," he added. The forum would offer an opportunity to see what the county ordinance requirements are "and have an opportunity to question those that appear not to be applied properly," he wrote.

A website, weedmaps.com lists 17 medical marijuana dispensaries in Vista and one in San Marcos, which has prohibited medical marijuana facilities

since 1996. There is one delivery-only dispensary listed in Escondido.

Medical marijuana may become moot within a few years. Backers of the California Cannabis Hemp Initiative 2016 began gathering signatures in November for next year's ballot.

Twenty-three states have legalized medical marijuana. Alaska, Washington, Oregon and Colorado have legalized it for recreational use. Delaware recently decriminalized possession of marijuana.

State ready for end to pot Prohibition?

State officials are charting the regulatory and tax framework for a coming marijuana boom



[\(/staff/steven-greenhut/\)](#)

By [Steven Greenhut \(/staff/steven-greenhut/\)](#) | 11 a.m. Aug. 15, 2015 | Updated , 2:10 p.m. | Aug. 28, 2015

SACRAMENTO — [President Franklin D. Roosevelt cheered the end of Prohibition in 1933 \(http://mentalfloss.com/end-prohibition-fdr-said-what-america-needs-now-drink\)](#) with these famous words: “What America needs now is a drink.” Roosevelt and other federal officials had been expecting the demise of America’s widely panned policy of banning the sale, transportation, production and importation of booze.

[As various states \(http://www.governing.com/gov-data/state-marijuana-laws-map-medical-recreational.html\)](#) put an end to the prohibition of marijuana, I’ve heard of no politicians extolling Americans to enjoy a good “toke” — but many are nevertheless plotting the regulatory and tax strategies for a post-legalization world. To many California officials, the issue is not whether to legalize recreational uses in a state that 19 years ago approved medical marijuana. It’s about when change will happen and what the world is going to look like after it does.

The best example is the recent release of the wonkish 93-page “Pathways Report” from the state’s [Blue Ribbon Commission on Marijuana Policy \(https://www.safeandsmartpolicy.org/\)](#). The panel was led by Lt. Gov. Gavin Newsom, a Democrat planning a run for governor in 2018. Following the report, he still supports legalization, although he says he is less of an advocate than he was — and Newsom won’t support just any legalization initiative. His caution sets the tone for the current discussion.

Usually, “blue ribbon” commissions serve up tepid analysis. [But the report \(https://www.safeandsmartpolicy.org/wp-content/uploads/2015/07/BRCPathwaysReport.pdf\)](#) was widely applauded for its candid effort to wrestle with the toughest issues. The report is the state’s de facto blueprint for constructing a legal framework in anticipation of a 2016 statewide ballot expected to feature at least one serious legalization measure.

“It didn’t come down with any decisive conclusions on any issues,” said Dale Gieringer, director of California NORML (National Organization for the Reform of Marijuana Laws), and a backer of the [Reform California coalition \(http://www.reformca.com/\)](#) that is crafting one of the better-funded initiatives. “(The report) is thoughtful and well-informed. We’re actually quite happy with it.”

Blue-ribbon winners

[Many conclusions are not only obvious \(https://www.safeandsmartpolicy.org/wp-content/uploads/2015/07/BRCPathwaysReport.pdf\)](#) — but designed to assuage the concerns of the public and law enforcement officials. The commission wants to ensure that children cannot easily gain access to marijuana, provide adequate testing of marijuana products to protect consumers, crack down on some of the environmental problems caused by illegal growing, and assure open and fair competition in the emerging weed industry.

Under the current mostly black-market situation, anyone has access to marijuana — and there’s no outside observer who checks the products’ potency or safety. Most environmental problems — the use of excessive pesticides and poisons, the waste of water resources, etc. — arise because these cultivation operations tend to be illegal and growers are more concerned about staying ahead of the law than about caring for the future of the property. Illegality also pushes growers onto public lands, which won’t get confiscated if they get caught.

“Any move toward legalization is complicated by the fact that the federal government still lists marijuana as a Schedule 1 drug,” [according to the report \(https://www.safeandsmartpolicy.org/wp-content/uploads/2015/07/BRCPathwaysReport.pdf\)](#). “Amid this federal prohibition, California has two current prongs of a marijuana industry: a) a large illicit market of cultivation and retail sale, and b) a quasi-legal medical cannabis system that is largely unregulated, untaxed and untenable.”

[As a result of this mishmash \(https://www.safeandsmartpolicy.org/wp-content/uploads/2015/07/BRCPathwaysReport.pdf\)](#), the medical-pot situation invites recreational users to pretend they have medical conditions — and the “loose regulations ... are also an invitation for federal intervention.”

The report calls for a highly regulated recreational market with a tight state-licensing system; regulations to prevent the creation of a dominant marijuana industry; reasonable fees and taxes so a black market doesn’t continue to thrive; limits on advertising; tracking of the product; government-directed testing; training requirements for marijuana industry personnel; a central state authority to

, regulate marijuana businesses; funding for myriad youth-protection programs; and more.

Newsom emphasizes the report's call for flexibility and a phased-in approach: "The biggest thing I've realized through this process is that legalization is not a decision that is made on Election Day, November next year. It's a process, it's sequenced," he said. "There's an implementation process that's critical."

In his view, [Proposition 215](http://ballotpedia.org/California_Proposition_215_the_Medical_Marijuana_Initiative_%281996%29) (http://ballotpedia.org/California_Proposition_215_the_Medical_Marijuana_Initiative_%281996%29), the 1996 measure that legalized medical marijuana, has resulted in a confusing and unsettled situation because similar regulatory groundwork wasn't done in advance of its passage.

Regulatory overreach?

The proposed regulatory regime is so extensive it makes some marijuana supporters wonder whether they might not be better off under the existing system. "I can make the case, if you can't take up and celebrate in public when it passes, it's not legalization," said [Steve Kubby](https://en.wikipedia.org/wiki/Steve_Kubby) (https://en.wikipedia.org/wiki/Steve_Kubby), one of the drafters of Proposition 215, current chairman of a cannabis-related company and Libertarian Party activist.

Kubby was subsequently prosecuted for growing marijuana on his property — charges he claims were motivated by retribution for his active involvement in the campaign. He won his case, but his ordeal has left him jaded about reform efforts that give up too much in the process.

California marijuana users currently are in an overall better position now than those in Colorado and Washington — states that recently legalized recreational pot use, but did so in such a highly regulated and taxed way that it gave law enforcement many expanded powers, he argues. Legalization might "really be a step backwards."

Most marijuana activists interviewed for this article, however, are fine with a highly regulated approach. But they have vastly different ideas about what type of regulations they'd like to see — depending, of course, on what part of the industry they are involved in. Lobbyists for bigger growers want to use new rules to limit smaller mom-and-pop growers, whereas the small guys want limits on what they call Big Marijuana. There are disputes over local control.

Some marijuana activists are, for instance, supporting [Assembly Bill 266](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB266) (http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB266), which for the first time since Proposition 215 creates a state-based regulatory model for medical-marijuana clinics. The bill gives marijuana sellers something — the first state licensing program and some legal certainty. It also creates a bureau or office of cannabis control, which will create some necessary regulatory infrastructure when recreational marijuana gets the voters' OK.

But to get the backing of local law enforcement and the powerful [League of California Cities](https://www.cacities.org/) (<https://www.cacities.org/>), it "gives cities full power and authority to enforce rules, regulations, and standards promulgated ... for facilities that are issued a state license." Localities get the right to ban medical-marijuana clinics, which is "a strange and improper approach," according to George Mull, president of the California Cannabis Association.

"Unfortunately, most of the cities' response is if they can say 'no,' they will say 'no,'" Mull added. So in exchange for creating a model to allow medical-marijuana stores, it gives cities and counties the power to use zoning laws to shut them down.

And that sits well with some existing marijuana clinics, he argues, for potentially crass reasons: "Elements of the marijuana movement are in areas they already are permitted and feel safe. If there are less retail outlets available, they get more business.... It behooves them to keep licenses scarce."

In 2010, California voters rejected [Proposition 19](http://ballotpedia.org/California_Proposition_19_the_Marijuana_Legalization_Initiative_%282010%29) (http://ballotpedia.org/California_Proposition_19_the_Marijuana_Legalization_Initiative_%282010%29), a recreational legalization measure. One of the key problems was it created a patchwork of local laws, so that marijuana might be legal in San Francisco, but punishable as a felony in, say, neighboring Daly City. Police agencies and the chiefs' association seized on that flaw, said [Diane Goldstein](http://www.leap.cc/diane-goldstein-on-talking-marijuana-2/), a retired Redondo Beach police officer and spokesperson for Law Enforcement Against Prohibition (<http://www.leap.cc/diane-goldstein-on-talking-marijuana-2/>), but now champion AB 266 because "they want a patchwork of laws so they can support bans in cities."

The city of San Diego offers a revealing take of what happens when local land-use rules supersede state-based protections. City officials have aggressively shut down 54 dispensaries in the past year and are working to shutter 15 others, [according to a recent Union-Tribune article](http://www.sandiegouniontribune.com/news/2015/jul/26/marijuana-dispensary-illegal-shut-down/) (<http://www.sandiegouniontribune.com/news/2015/jul/26/marijuana-dispensary-illegal-shut-down/>).

City Attorney Jan Goldsmith says it's "about the rule of law." His approach is to "aggressively enforce the law against those operating illegally while encouraging operators to work through the process to obtain a legal permit."

Critics note that when permits are tightly limited, it's hard to have an open and competitive market — and it keeps black markets thriving. One of the key rationales for marijuana legalization is to free up local resources to focus on more serious issues. But if code enforcers, city attorney offices and even police are focusing on shutting down clinics for land-use reasons, where's the time savings?

The tax man cometh

Police, local government officials and state regulators aren't the only ones to grapple with a coming world of legal marijuana. Some of the officials on the legalization cutting edge can be found among California's taxing authorities (<https://reason.com/archives/2015/05/29/california-puts-medical-marijuana-dispen>). That's not a surprise, given government has a financial interest in garnering revenue from state businesses. And because of an unsettled legal situation, the state only collects a small percentage of the marijuana cash it is owed.

Republican George Runner and Democrat Fiona Ma of the Board of Equalization, the state's tax-collection agency, created a Cannabis Compliance Pilot Project to help medical-marijuana businesses pay their taxes. Currently, they are hobbled by federal financial laws that forbid pot companies from having bank accounts. The BOE generally forbids cash payments — but is coming up with exceptions to help these businesses pay their taxes (without even having to state what industry they are involved in).

Sometimes, Runner says, marijuana business owners will come into a tax-agency office with plastic trash bags filled with cash. This cash situation, he said, is an invitation to violence and corruption. Runner is opposed to marijuana legalization, but "I've taken a position that it's important for us to set up a regulatory structure before there's an expansion ... in case voters choose to do that."

Runner and Ma recently sponsored a "Bank the Cannabis Industry" (<http://www.boe.ca.gov/ma/news/MaMediaAdvisory072915.htm>) conference in Sacramento to address banking concerns. There's also a bipartisan effort in Congress to allow legitimate marijuana businesses to have access to federally insured banks — but its fate is uncertain. The BOE wants to create a California-run bank to serve licensed marijuana businesses (<https://www.youtube.com/watch?v=5JqFuFlgfaI>).

Not everyone on the BOE wants to simply work collaboratively with marijuana businesses to find solutions. BOE Chairman Jerome Horton (<https://www.boe.ca.gov/members/horton/news/2015/HortonCannabis071415.htm>), a Los Angeles Democrat, is focusing more on enforcement. He recently announced "his support for a 'Cannabis Tax Enforcement Eliot Ness Plan,' which is intended to educate, investigate, audit, arrest, and force cannabis sellers to pay their fair share of taxes."

He is backing an amnesty bill that offers growers a chance to come out from under the shadows "or risk imprisonment, as gangster Al Capone did for tax evasion."

In an interview, Horton agreed a majority of those in the medical-marijuana business are honest citizens. "We have to encourage those who are legitimate operators to comply, to fill out the permits and so forth and report and pay your taxes so we can distinguish between the ones who are not legitimate." But he said he is providing a stick along with the carrot.

Slow road from Prop. 215

State officials are still struggling with a framework for the normalization of medical-marijuana clinics 19 years after they became legal (http://ballotpedia.org/California_Proposition_215,_the_Medical_Marijuana_Initiative_%281996%29) — and just as voters are moving on to wider legalization. One thing governments tend to be good at is collecting taxes. But California's government still hasn't sorted this out, even though grappling with the existing medical-marijuana structure is crucial to building any new recreational system.

Indeed, one of the complicating matters for the 2016 ballot is AB 266's fate. If it passes, initiative writers will need to see how these new rules for medical dispensaries might affect their ballot language.

One of the biggest questions raised by the Pathways report: Does the state follow Washington's model or Colorado's? Washington left its medical-marijuana business intact (although officials are clamping down on it) and then held a lottery system for new recreational businesses. But the high tax rate on the recreational stores created a continuing incentive for people to game the system and buy weed at dispensaries. High taxes also bolster the black market.

"The Colorado model makes sense for California," said Max Del Real, executive director of the California Cannabis Business League (<http://www.bizjournals.com/search?q=California+Cannabis+Business+League>), a trade association that represents growers, distributors, laboratories and investors. "They took all the medical-marijuana businesses and essentially transitioned them into recreational commercial businesses."

Del Real says marijuana is a big business today that employs tens of thousands of people and works with local governments. He'd like to see backyard growers replaced by big growers who get cultivation licenses for commercial settings in urban environments — e.g., in 50,000-square-foot warehouses in industrial parks. He also backs strict numerical limits on pot shops and licenses, such as those in San Diego.

It's easy to see, however, why smaller operations are concerned about this approach. This is where the commission's report might have a blind spot. It wants to ensure "the industry and regulatory system are not dominated by large, corporate interests." But in advocating a tightly regulated market with lots of government controls and limits, the corporate entities that can afford lobbyists and lawyers are the ones most likely to get the approvals.

Driving into a roadblock

One of the thorniest roadblocks to legalization is the issue of drugged driving. Assemblyman Tom Lackey, a freshman Republican from Palmdale and former California Highway Patrol officer, authored a bill to allow cops to use an oral-fluids test (such as a mouth swab) designed to detect impaired driving. "We're sharing the roadway — including with those who are treating themselves medicinally," he said.

Lackey and the report (<https://www.safeandsmartpolicy.org/wp-content/uploads/2015/07/BRCPathwaysReport.pdf>) agree on the need to combat drugged driving without arresting people who may have smoked earlier in the day, week or month. Unlike alcohol and chemical-based drugs, marijuana stays in one's system long after it causes impairment. The bill failed in committee mainly over concerns about false positives.

NORML's Gieringer says it's foolish to apply an alcohol-oriented testing system to this totally different substance (http://www.canorml.org/news/Assemblyman_Lackey_Stages_Breathalyzer_Demonstration). Driving safety has done nothing but improve since the passage of Proposition 215, he argues. People are smoking marijuana and driving now anyway. He doesn't believe legalizing marijuana would have any noticeable effect on drugged driving.

Even Lackey, a legalization foe, has backed [AB 266](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB266) (http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB266) and was involved in the cannabis banking seminar, indicating the degree to which the debate in California has shifted from "if" to "when."

By contrast, marijuana legalization is still a topic for posturing or careful evasions among presidential candidates.

"If you're getting high in Colorado today, enjoy it. As of January 2017, I will enforce the federal laws," warned [Republican presidential candidate and New Jersey Gov. Chris Christie](http://dailycaller.com/2015/06/08/if-chris-christie-were-president-hed-put-an-end-to-marijuana-legalization/) (<http://dailycaller.com/2015/06/08/if-chris-christie-were-president-hed-put-an-end-to-marijuana-legalization/>).

Here in California, such rhetoric is rare. Instead, foes are quiet and legalization advocates are sorting through at least six different measures in the hopes of backing one that will pass statewide muster. There's a good chance California will soon join the legalized ranks of Alaska, Colorado, Oregon, Washington and the District of Columbia.

Fortunately, officials here aren't [waiting for a vote](http://www.reformca.com/) (<http://www.reformca.com/>) before creating a legal and regulatory framework.

Views on pot policy

Here are some views from prominent state officials regarding current medical-marijuana policy and what it might mean if the state legalizes recreational marijuana in 2016.

Lt. Gov. Gavin Newsom, chairman of state's Blue Ribbon Commission on Marijuana Policy

"The process has certainly made me more cognizant of the intended and unintended consequences in a state that is very different than Colorado, Washington, Oregon or Alaska — a state where the magnitude of this decision ... will be felt not only throughout the country, but notably in Mexico and elsewhere. ... I was a stronger advocate candidly in the beginning than I am today, though an advocate I am today nonetheless."

"As a taxpayer, I'm sick and tired of paying for the prosecution costs, the public defender, the defense costs, the court time. I was a mayor that was part of the problem getting federal grants ... where we were doing undercover buy and busts — massive overtime, massive federal waste of money and then keep our police writing reports on marijuana, not being out on the streets dealing with serious and violent criminals. ... We used to solve murders overwhelmingly in this country up until the 1970s. It's interesting if you look at the stats. We used to close out cases because we had more police work more time focused on that."

San Diego City Attorney Jan Goldsmith

"(Our strategy is to) aggressively enforce the law against those operating illegally while encouraging operators to work through the process to obtain a legal permit. It's about the rule of law."

David Thomas, Federal Reserve Bank in San Francisco, during the Bank the Cannabis Industry symposium in Sacramento

"The legal, recreational and medicinal marijuana industry has been reported to be the fastest growing industry in the U.S., with revenues estimated to be \$2.7 billion. ... Only 105 financial institutions are engaged in banking relationships with marijuana-related businesses.

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ORDINANCE NO. 2016-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING THE ESCONDIDO MUNICIPAL CODE CHAPTER 33 (ZONING CODE) ARTICLE 57, TO EXPLICITLY PROHIBIT THE CULTIVATION AND DELIVERY OF MEDICAL CANNABIS (MARIJUANA), TO MAINTAIN THE PROHIBITION OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF ESCONDIDO AND TO DELETE ESCONDIDO MUNICIPAL CODE CHAPTER 16F (MEDICAL MARIJUANA DISPENSARIES)

Planning Case No. AZ 15-0004

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. That the City Council has determined that this Municipal Code Amendment is exempt from the California Environmental Quality Act ("CEQA") in conformance with Section 15061(b)(3) "General Rule" and finds that no significant environmental impact will result from approving this code amendment.

SECTION 3. That upon consideration of the staff report; Planning Commission recommendation; Factors to be Considered, attached as Exhibit "A" to this Ordinance and incorporated by this reference; and all public testimony presented at the hearing held on this project, this City Council finds the Zoning Code Amendment to be

consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 4. That Escondido Municipal Code Chapter 33, Article 57 (Miscellaneous Use Restrictions), is amended as described in the attached Exhibit "B" to explicitly prohibit the cultivation and delivery of medical marijuana, and to maintain the prohibition of medical marijuana dispensaries in the City of Escondido.

SECTION 5. That Chapter 16F of the Escondido Municipal Code is deleted.

SECTION 6. SEPARABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 7 That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed, and published in the County and circulated in the City of Escondido

EXHIBIT "A"

FACTORS TO BE CONSIDERED AZ 15-0004

Municipal Code Amendment

1. The public health, safety and welfare would not be adversely affected by the proposed Zoning Code amendment. Pursuant to Article XI Section 7 of the California Constitution, a city may make and enforce within its limits all police, sanitary and other ordinances that are not in conflict with general laws. The proposed code amendment would explicitly prohibit the cultivation and delivery of medical marijuana, and maintain the prohibition of medical marijuana dispensaries in the City of Escondido as permitted by state law. No physical improvements are proposed as part of this code amendment.
2. Escondido's permissive zoning code, including its existing prohibition of medical marijuana land uses and businesses does not conflict with any State law. The proposed Zoning Code Amendment would not be detrimental to surrounding properties because the proposed amendments are merely a declaration of existing law and do not expand or reduce the type of land uses that may be established in the City.
3. The proposed amendment would be consistent with the General Plan, since permissive zoning systems like that operating in Escondido – with its resulting prohibition on marijuana related uses and medical marijuana land uses or businesses – have been upheld by the California courts, including in *City of Corona v. Naulls*, (2008) 166 Cal.App.4th 418; *City of Claremont v. Kruse*, (2009) 177 Cal.App.4th 1153; and *City of Monterey v. Carnnshimba*, (2013) 215 Cal.App.4th 1068. The proposed code amendment maintains the status quo and more importantly retains local control over the cultivation, distribution, and delivery of medical marijuana.

Exhibit B

Amendments to Escondido Zoning Code Sections 33-1100 and 33-1117 *(Proposed language in italics)*

Chapter 33 ZONING

ARTICLE 57. MISCELLANEOUS USE RESTRICTIONS

Sec. 33-1100. Purpose.

(a) General miscellaneous uses covered in this article, are such that they cannot be confined to particular zones. In those zones where such land uses tend to adversely affect the principal use of the zone, the use is made subject to the issuance of a conditional use permit. One purpose of this article is to establish the criteria for the issuance of such conditional use permits and various regulatory provisions therefor. The other purpose of this article is to establish provisions for several land uses which create special problems of regulation and control. The provisions of this article are intended to minimize the adverse effect of those uses on surrounding properties in order to foster higher standards of development. When said adverse effects of any such conditional use on surrounding properties or the community as a whole cannot be prevented by the imposition of reasonable conditions, then the city may, and reserves the right to, deny such conditional use permit.

(b) The provisions of this article shall not be construed to limit or interfere with the installation, maintenance and operation of water lines, sewer lines, gas lines or other public utility pipelines and overhead electric and communication lines and associated appurtenances (exclusive of buildings) when installed, maintained and operated in accordance with all other applicable laws.

(c) *The Escondido Zoning Code has always been and is a permissive zoning code. Under a permissive code, no use may be established or operated within a building or on land unless the use: (1) qualifies as an expressly listed use pursuant to Chapter 33; and (2) has first received and maintained all permits or approvals needed to qualify as a lawful use.*

(1) Only lawful uses may be legally established, operated, or maintained on land or in a building within the City of Escondido.

(2) It is unlawful, prohibited, and a violation of this code for a person to manage, operate, or materially contribute to a use which constitutes an unlawful use. 'Unlawful use' means any primary or accessory use which is not a lawful use."

(3) A person maintains and operates an unlawful use if the person: (1) is an owner or partial owner of the unlawful use; (2) holds an equity or other legal interest in the unlawful use which gives the holder managerial control in the operation of the unlawful use; or (3) is the a primary manager of the unlawful use, whether or

not on-site. A person operates or materially contributes to an unlawful use if the person: (1) is an on-site manager of the unlawful use during any period that the unlawful business is open; (2) is hired to provide or otherwise provides security at the unlawful use; or (3) is an employee at or worker in any way associated with the unlawful use. For purposes of this paragraph, an employee or worker is a person who provides on-site work or services for the benefit of the unlawful use (whether or not hired by the unlawful use as an employee) during a period when there are no more than two persons present at the site of the unlawful use (other than security) who are performing work for the benefit of the unlawful use.

(4) Enforcement against an unlawful use may occur using any or all available legal means, including without limitation, the issuance of administrative citations, civil proceedings, nuisance proceedings, or criminal proceedings.

(d) The provisions of this article shall be in addition to any other applicable ordinance or regulation.

Sec. 33-1117. MEDICAL MARIJUANA

(a) *Definitions*

(1) *"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.*

(2) *"Commercial cannabis activity" means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in California Business & Professions Code Section 19319, related to qualifying patients and primary caregivers.*

- (3) *"Cooperative" shall mean two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering or making available medical marijuana, with or without compensation.*
- (4) *"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.*
- (5) *"Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license and that holds a valid local license or permit.*
- (6) *"Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under state or local law that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.*
- (7) *"Dispensary" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.*
- (8) *"Distribution site" means any facility, structure or site used by any person to deliver, distribute, or access any medical cannabis product.*
- (9) *"Manufacturer" means a person who conducts the production, preparation, propagation, or compounding of manufactured medical cannabis or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license and that holds a valid local license or permit.*

- (10) *"Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.*
- (11) *"Medical Marijuana Regulation and Safety Act" or "MMRSA" shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.*
- (12) *"Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.*
- (13) *"Permit," "local license," or "local permit" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.*
- (14) *"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.*
- (15) *"Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to state or local law.*
- (16) *"Transporter" means a person issued a state license to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the state between facilities that also have a state and local license to conduct commercial cannabis activities.*
- (b) *Prohibitions.*
- (1) *Commercial cannabis activities are expressly prohibited in all zones and all specific plan areas in the City of Escondido.*
- (2) *Delivery of cannabis, mobile cannabis dispensaries, or engaging in any activity in furtherance of distribution, are expressly prohibited within the*

City of Escondido. No person shall conduct any deliveries that either originate or terminate within the City.

- (3) It shall be unlawful for any person to establish, own, allow, manage, conduct, or operate any commercial cannabis activity, including a dispensary or distribution site, or to participate as an employee, contractor, agent, or volunteer, or in any manner or capacity, in any commercial cannabis activity in the City of Escondido.*
- (4) All activities for which a State license is required pursuant to the MMRSA are prohibited in the City of Escondido and the City shall not issue any permit, license or other entitlement for any commercial cannabis activity for which a State license is required.*
- (5) Cultivation of cannabis for non-commercial purposes, including cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zones and all specific plan areas in the City of Escondido. It shall be unlawful for any person, including a qualified patient or primary caregiver, to cultivate any amount of cannabis in the City, even for medical purposes.*
- (6) Transport of medical cannabis or medical cannabis products by a state licensed transporter, authorized by state law, shall not be prohibited when travelling through the City of Escondido.*

(c) Public Nuisance. Any use or condition caused, or permitted to exist, in violation of any provision of this Article shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

(d) Civil Penalties. In addition to any other enforcement permitted by this Chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1 of this code against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party.

(e) Criminal Penalties. The violation of any provision of this Article is unlawful and is a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or a jail term of six (6) months, or both. Each and every day on which a violation occurs shall be deemed to be a separate violation.

CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 16
Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council
FROM: Graham Mitchell, City Manager
SUBJECT: Interim Fire Chief Appointment; 180 Day Waiting Period Exception

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2016-08 approving the appointment of Michael Lowry as Interim Fire Chief, to oversee the operations of the Fire Department until the vacancy is filled via a promotional recruitment.

FISCAL ANALYSIS:

No increase to the Fire Department budget as a result of this interim appointment.

PREVIOUS ACTION:

None

BACKGROUND:

Based on plans made earlier in 2015 Chief Michael Lowry retired on December 31, 2015. Given the changes occurring in the city manager position, Chief Lowry agreed to be available and assist in the role of interim chief until a recruitment can occur and the position is permanently filled.

California retirement law generally discourages the practice of public employees working for public agencies while also drawing retirement. However, the law also recognizes the importance of certain skills and experience held by specific employees that can be of substantial benefit to the public. Two separate sections of the Government Code permit such employees to return to work for the agency from which they have retired, under specific circumstances.

Government Code section 7522.56 and section 21221 normally require CalPERS retirees to wait at least 180 days after their retirement date before they are eligible to begin any post-retirement employment. However, this waiting period can be waived by the agency if the governing body adopts a resolution at a public meeting which approves the appointment and stipulates the conditions surrounding the appointment. These interim appointments are generally for single and unique executive positions. Once the resolution is adopted, the retiree can be appointed into a vacant

interim position prior to the 180-day waiting period, for a limited term, and while a recruitment takes place to fill the vacancy.

In addition to the timing issues relative to the city manager position, the appointment of Mr. Lowry to Interim Fire Chief, which would be effective on January 19, 2016, is necessary in order to accomplish the following:

- Allow Mr. Lowry to provide continuity in overseeing the activities and operations of the Fire Department and provide administrative support to the city manager.
- Assist with a smooth and efficient transition to a new fire chief.
- Provide the opportunity to conduct an extensive promotional recruitment whereby candidates will be evaluated and over a period of time. The current status of this recruitment is a promotional examination, which commenced on January 11, 2016, and will conclude with a new Fire Chief appointment on or after July 1, 2016.

The term of this interim appointment will be less than six months (June 30, 2016), and until a successor fire chief is appointed through a promotional recruitment process. The compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate. The monthly maximum base salary for this position is \$16,775 and the hourly equivalent is \$96.98, and the monthly minimum base salary rate for this position is \$12,426 and the hourly equivalent is \$71.69. The hourly rate paid to Mr. Lowry will be \$91.96.

Respectfully submitted,



Graham Mitchell
City Manager

RESOLUTION NO. 2016-08

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING THE APPOINTMENT OF MICHAEL
LOWRY AS INTERIM FIRE CHIEF PURSUANT
TO GOVERNMENT CODE SECTIONS 7522.56
AND 21221

WHEREAS, California Government Code Section 7522.56 and 21221 set forth specific requirements that must be fulfilled before a CalPers retired annuitant may perform services for a CalPers employer; and

WHEREAS, Michael Lowry, retired from the City of Escondido as Fire Chief effective December 31, 2015, and the City has not yet hired a new Fire Chief although a recruitment process is underway as outlined in the staff report accompanying this item which is incorporated by this reference; and

WHEREAS, the City Manager has requested and believes it to be in the best interest of the City to have Mr. Lowry serve as an Interim Fire Chief for a limited period of time until a successor is appointed; and

WHEREAS, Mr. Lowry has not and will not receive any retirement-related incentive (i.e. such as a "Golden Handshake"), and his services as an Interim Fire Chief will be for the duration and subject to the compensation limitations set forth in Government Code Section 7522.56 and Section 21221; and

WHEREAS, the City Council wishes to consent and approve the appointment of Michael Lowry as an interim appointment retired annuitant to the vacant position of Fire Chief for the City of Escondido under Government Code Section 7522.56 and Section

21221, effective January 19, 2016; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the City Council hereby certifies the nature of the appointment of Michael Lowry as described herein and detailed in the attached staff report and that this appointment is necessary to fill the critically needed position of Fire Chief for the City of Escondido by January 19, 2016, because an Interim Fire Chief appointment is necessary to oversee the operations of the Fire Department until the vacancy is filled.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 17
Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council

FROM: Christopher W. McKinney, Director of Utilities

SUBJECT: Vista Verde Reservoir Replacement Project – Phase II: Bid Award for Construction; Budget Adjustment; and Award of Consulting Agreement for Construction Management

RECOMMENDATION:

The Utilities Department requests that the City Council:

- 1) Adopt Resolution 2016-03 authorizing the Mayor and City Clerk to execute a Public Improvement Agreement with Pacific Hydrotech Corporation, the lowest responsive and responsible bidder, in the amount of \$9,396,344 for construction of the Vista Verde Reservoir Replacement Project – Phase II.
- 2) Adopt Resolution 2016-13 authorizing the Mayor and City Clerk to execute a Consulting Agreement with Butier in the amount of \$671,540 for construction management services for the Vista Verde Reservoir Replacement Project – Phase II.
- 3) Approve a budget adjustment in the amount of \$2,866,700.

FISCAL ANALYSIS:

The Vista Verde Reservoir CIP 701201 currently has \$8,645,737 available. A budget adjustment in the amount of \$2,866,700: \$300,000 from A-3 Reservoir CIP 701705, \$250,000 from Automatic Meter Reading CIP 706002, \$250,000 from A-11 Reservoir CIP 707201, and \$2,066,700 from Unallocated Reserves is required to complete the project.

BACKGROUND:

This project will replace the existing 750,000 gallon steel tank and 132,000 gallon temporary bolted steel tank serving the Vista Verde Zone with two new one million gallon pre-stressed concrete reservoirs. The existing 750,000 gallon steel tank is deteriorating and in urgent need of replacement. This project is the second of two phases. The work in this phase consists of the construction of two new partially buried one million gallon pre-stressed concrete reservoirs, valve structure, access driveway, and associated piping. Once the new reservoirs are in service, this project will also demolish the existing steel tank and salvage the temporary bolted steel tank.

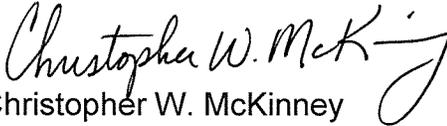
Competitive bids were opened by the City Clerk’s representative on December 10, 2015 with the following results:

- | | |
|---|--------------|
| 1) Pacific Hydrotech Corporation, Perris | \$9,396,344 |
| 2) L.H. Woods and Sons Inc., Vista | \$9,688,000 |
| 3) JR Filanc Construction, Escondido | \$9,796,000 |
| 4) TC Construction, Santee | \$10,156,237 |
| 5) Gateway Pacific Contractors Inc., Sacramento | \$10,291,155 |

Staff has thoroughly reviewed the apparent low bid submitted by Pacific Hydrotech Corporation, and has determined that they are the lowest responsive and responsible bidder.

Due to the complexity and multiple specialized disciplines involved with this construction, Utilities Department management has decided that it would be more efficient to use a consultant for construction management services. The Utilities Department recommends retaining Butier, a third party construction management team, to manage this construction project. This contract for construction management services includes constructability reviews, construction inspections, administration of the construction contract, claim support, and facilitation of partnering sessions.

Respectfully submitted,


Christopher W. McKinney
Director of Utilities



CITY OF ESCONDIDO
BUDGET ADJUSTMENT REQUEST

Date of Request: January 4, 2016

Department: Utilities, Water Division

Division: Capital Projects

Project/Budget Manager: Nelson Nuezca 7034
Name Extension

Council Date (if applicable): January 13, 2016
(attach copy of staff report)

For Finance Use Only	
Log #	<u>BA 01-02</u>
Fiscal Year	<u>2016</u>
<input type="checkbox"/>	Budget Balances
<input type="checkbox"/>	General Fund Accts
<input type="checkbox"/>	Revenue
<input type="checkbox"/>	Interfund Transfers
<input type="checkbox"/>	Fund Balance

Project/Account Description	Account Number	Amount of Increase	Amount of Decrease
Vista Verde Reservoir	556-701201	\$2,866,700	
Water Fund Operating, Debt, and CIP Reserve	3050-555		\$2,066,700
Automated Meter Reading Project	556-706002		\$250,000
A-11 Reservoir Project	556-707201		\$250,000
A-3 Reservoir Project	556-701705		\$300,000
Transfer in-from Operating Fund	4999-556	\$2,066,700	
Transfer out- to Capital Projects Fund	5999-555	\$2,066,700	

Explanation of Request:

To fund the Vista Verde Reservoir Replacement Project - Phase II. Any unused funds will be returned to the Unallocated Reserves.

APPROVALS

Christopher W. McKing 01.05.2016
Department Head Date

Josh Cox 1/5/16
Finance Date

City Manager Date

City Clerk Date

RESOLUTION NO. 2016-03

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR AND CITY CLERK
TO EXECUTE, ON BEHALF OF THE CITY, A
PUBLIC IMPROVEMENT AGREEMENT WITH
PACIFIC HYDROTECH CORPORATION FOR
THE CONSTRUCTION OF THE VISTA VERDE
RESERVOIR REPLACEMENT PROJECT –
PHASE II

WHEREAS, the Escondido City Council authorized an invitation for bids for the construction of the Vista Verde Reservoir Replacement Project – Phase II (the “Project”); and

WHEREAS, the existing 750,000 gallon steel tank serving the Vista Verde Zone is deteriorating and in urgent need of replacement; and

WHEREAS, the City of Escondido opened sealed bids for the Project on December 10, 2015; and

WHEREAS, Utilities Staff thoroughly reviewed the apparent low bid submitted by Pacific Hydrotech Corporation, and have determined that it is the lowest responsive and responsible bidder; and

WHEREAS, the Director of Utilities has determined Pacific Hydrotech Corporation to be the lowest responsive and responsible bidder and recommends awarding the bid in the amount of \$9,396,344 to Pacific Hydrotech Corporation; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to award this contract to Pacific Hydrotech Corporation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the Mayor and City Council accepts the recommendation of the Director of Utilities.
3. That the Mayor and City Clerk are authorized to execute, on behalf of the City, a Public Improvement Agreement ("Agreement") with Pacific Hydrotech Corporation. A copy of the Agreement is attached as Exhibit "1" and is incorporated by this reference.

PUBLIC IMPROVEMENT AGREEMENT

This "Agreement", dated the _____ day of _____, 20____, in the County of SAN DIEGO, State of California, is by and between **THE CITY OF ESCONDIDO** (hereinafter referred to as "CITY"), and **PACIFIC HYDROTECH CORPORATION** (hereinafter referred to as "CONTRACTOR").

The CITY and the CONTRACTOR, for the consideration stated herein, agree as follows:

1. The complete contract includes all of the Project Documents described in the General Conditions, which are incorporated by reference. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.
2. CONTRACTOR shall perform, within the time set forth in Paragraph 4 of this Agreement, everything required and reasonably inferred to be performed, and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services as described in the complete contract and required for construction of

VISTA VERDE RESERVOIR REPLACEMENT PROJECT – PHASE II

All of said work to be performed and materials to be furnished shall be completed in a good workmanlike manner, free from defects, in strict accordance with the plans, drawings, specifications and all provisions of the complete contract as hereinabove defined. The CONTRACTOR shall be liable to the CITY for any damages and resulting costs, including consultants' costs, arising as a result of a failure to fully comply with this obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of the Architect, Engineer, Inspector, or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the requirements of the Project Documents, and unless the CONTRACTOR protests at the time of such alleged prevention that the act or omission is preventing the CONTRACTOR from fully complying with the Project documents. Such protest shall not be effective unless reduced to writing and filed with the CITY within **three (3) working days** of the date of occurrence of the act or omission preventing the CONTRACTOR from fully complying with the Project documents.

3. CITY shall pay to the CONTRACTOR, as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the Project documents, the sum of Nine Million Three Hundred Ninety Six Thousand and Three Hundred Forty Four Dollars (\$9,396,344).
4. The work shall be commenced on or before the twenty-first (21st) day after receiving the CITY'S Notice to Proceed and shall be completed within **seven hundred thirty (730) calendar days** from the date specified in the Notice to Proceed.
5. Time is of the essence. If the work is not completed in accordance with Paragraph 4 above, it is understood that the CITY will suffer damage. It being impractical and infeasible to determine the amount of actual damage(s), in accordance with Government Code Section 53069.85, it is agreed

except for liability resulting from the sole active negligence, or willful misconduct of the CITY.

- (b) Any injury to or death of any person(s) or damage, loss or theft of any property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm, or corporation employed by the CONTRACTOR, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs on or off City property.
- (c) Any and all liabilities, claims, actions, causes of action, proceedings, suits, administrative proceedings, damages, fines, penalties, judgments, orders, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements, arising out of any violation, or claim of violation of the San Diego Municipal Storm Water Permit (Order No. 2001-01), and updates or renewals, of the California Regional Water Quality Control Board Region 9, San Diego, which the CITY might suffer, incur, or become subject by reason of or occurring as a result of or allegedly caused by the construction, reconstruction, maintenance, and/or repair of the work under this Agreement.

The CONTRACTOR, at CONTRACTOR's own expense, cost, and risk shall defend any and all actions, suit, or other proceedings that may be brought or instituted against the CITY, its governing board, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the CITY, its governing board, officers, agents or employees in any action, suit or other proceedings as a result thereof.

- 8. CONTRACTOR shall take out, prior to commencing the work, and maintain, during the life of this contract, and shall require all subcontractors, if any, of every tier, to take out and maintain:
 - (a) General Liability and Property Damage Insurance as defined in the General Conditions in the amount with a combined single limit of not less that **\$3,000,000 per occurrence**.
 - (b) Course of Construction / Builder's Risk Insurance. See Article 5.2 of General Conditions.
 - (c) Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to the above-mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:
 - (1) Automotive and truck where operated in amounts as above
 - (2) Material hoist where used in amounts as above
 - (d) Workers' Compensation Insurance.
 - (e) Each insurance policy required above must be acceptable to the City Attorney, as follows:
 - (1) Each policy must name the CITY specifically as an additional insured under the policy on a separate endorsement page, with the exception of the workers' compensation and the Errors and Omissions policies.
 - (2) Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage

must be provided by an A.M. Best's A-rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.

- (3) All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.
- (f) In executing this Agreement, CONTRACTOR agrees to have completed insurance documents on file with the CITY within 14 days after the date of execution. Failure to comply with insurance requirements under this Agreement will be a material breach of this Agreement, resulting in immediate termination at CITY's option.
9. This Agreement is subject to California Public Contract Code Section 22300, which permits the substitution of securities for any monies withheld by the City under this Agreement, and permits the CONTRACTOR to have all payments of earned retentions by the City paid to an escrow agent at the expense of the CONTRACTOR.
10. Each and every provision of law and clause required by law to be inserted in this Agreement or its attachments shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction, without further changes to the remainder of the Agreement.
11. The complete contract as set forth in Paragraph 1 of this Agreement constitutes the entire Agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Escondido City Council.
12. CONTRACTOR shall comply with those provisions of the Labor Code requiring payment of prevailing wages, keeping of certified payroll records, overtime pay, employment of apprentices, and workers' compensation coverage, as further set forth in the General Conditions, and shall file the required workers' compensation certificate before commencing work. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONTRACTOR shall post any job site notices required by regulation.
13. The terms "Project Documents" and/or "Contract Documents" where used, shall refer to those documents included in the definition set forth in the General Conditions made a part hereof.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of CITY by its officers thereunto authorized and by CONTRACTOR, the date and year first above written.

CITY OF ESCONDIDO
a municipal corporation
201 North Broadway
Escondido, CA 92025

By: _____
Diane Halverson, City Clerk

By: _____
Sam Abed, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

CONTRACTOR

By: _____
Signature

By: _____
Signature*

Print Name

Print Name

Title

Title

(Second signature required only for corporation)

By: _____
Signature**

Print Name

Title

(CORPORATE SEAL OF CONTRACTOR, if
corporation)

Contractor's License No.

Tax ID/Social Security No.

*If CONTRACTOR is a corporation, the first signature must be by one of the following officers of the corporation: Chairman of the Board, President, or any Vice President.

**If CONTRACTOR is a corporation, the second signature must be by a different person from the first signature and must be by one of the following officers of the corporation: Secretary, any Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.

SECTION A-00610 - FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENT,

That _____ ("Contractor") and _____ ("Surety") are held and firmly bound unto the CITY OF ESCONDIDO ("Owner") in the sum of _____ Dollars, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has been awarded and is about to enter into a contract with Owner to perform all work required under the Bid Schedule(s) of the Owner's specifications entitled,

VISTA VERDE RESERVOIR REPLACEMENT PROJECT – PHASE II

WHEREAS, the provisions of the Contract are incorporated by reference into this Faithful Performance Bond and shall be part of Surety's obligation hereunder.

NOW THEREFORE, if Contractor shall perform all the requirements of said contract required to be performed on his part, at the times and in the manner specified herein, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

PROVIDED, that

- (1) Any alterations in the work to be done or the materials to be furnished, which may be made pursuant to the terms of the Contract, shall not in any way release Contractor or Surety thereunder;
- (2) Any extensions of time granted under the provisions of Contract shall not release either Contractor or Surety from their respective obligations to Owner;
- (3) Notice of any such alterations or extensions of the Contract is hereby waived by Surety;
- (4) Any payments (including progress payments) made on behalf of Owner to Contractor after the scheduled completion of the work to be performed pursuant to the Contract shall not release either Contractor or Surety from any obligations under the Contract or this Faithful Performance Bond, or both, including any obligation to pay liquidated damages to Owner; and
- (5) To the extent Owner exercises its rights pursuant to this Bond, Owner shall be entitled to demand performance by the surety and be further entitled to recover, in addition to all other remedies afforded by law, its reasonably incurred costs to complete the work, attorneys fees and consultant costs, as well as actual costs incurred by OWNER for the

increased dedication/commitment of time of OWNER employees to the Project. These costs shall be in addition to the penal sum of the bond.

SIGNED AND SEALED, this _____ day of _____, 20____.

Contractor

Surety

Address

Phone No.

(SEAL)

BY _____
Signature

Signature

(SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY)

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

SECTION A-00620 - LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENT,

That _____ as Contractor, and _____ as Surety, are held and firmly bound unto the CITY OF ESCONDIDO, hereinafter called Owner, in the sum of _____ dollars, for the payment of which sum well and truly to be made, we bind ourselves our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Contractor has been awarded and is about to enter into the annexed contract with said Owner to perform all work required under the Bid Schedule(s) of the Owner's specifications entitled,

VISTA VERDE RESERVOIR REPLACEMENT PROJECT – PHASE II

NOW THEREFORE, if said Contractor, or subcontractor, fails to pay for any materials, equipment, or other supplies, or for rental of same, used in connection with the performance of work contracted to be done, or for amounts due under applicable State law for any work or labor thereon, or for amounts due under the Unemployment Insurance Code, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Contractor and its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such labor, said Surety will pay for the same in an amount not exceeding the sum specified above, and, in the event suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court. This bond shall inure to the benefit of any persons, companies or corporations entitled to file claims under applicable State law.

PROVIDED, that any alterations in the work to be done or the materials to be furnished, which may be made pursuant to the terms of said contract, shall not in any way release either said Contractor or said Surety thereunder, nor shall any extensions of the time granted under the provisions of said contract release either said Contractor or said surety, and notice of such alterations or extensions of the contract is hereby waived by said Surety.

SIGNED AND SEALED, this _____ day of _____, 20__.

Contractor

Surety

Address

Phone No.

(SEAL)

BY _____
Signature

Signature

(SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY)

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

SECTION A-00630 - CITY OF ESCONDIDO BUSINESS LICENSE

In accordance with Municipal Code Section 16, the successful bidder is required to obtain a City of Escondido Business License prior to execution of contract.

The following information must be submitted to the City Clerk prior to execution of contract:

City of Escondido Business License No. _____

Expiration Date _____

Name of Licensee _____

SECTION A-00660 - WORKERS' COMPENSATION INSURANCE CERTIFICATE

If self-insured for Workers' Compensation, the Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, Sections 1860 and 1861, and I will comply with such provisions before commencing the performance of the work of the contract.

Dated: _____

Contractor

By: _____

Signature

SAMPLE NOTICE

(REQUIRED UNDER GENERAL CONDITIONS, ARTICLE 6.1.B)

TO THE PEOPLE ON THIS STREET:

WITHIN THE NEXT FEW DAYS, WORK WILL BE STARTED ON THE FOLLOWING PROJECT:

VISTA VERDE RESERVOIR REPLACEMENT PROJECT – PHASE II

The work may cause some inconvenience, but will be of permanent benefit.

We shall appreciate your cooperation in the following matters:

1. Please be alert when driving or walking in the construction area.
2. Tools, materials and equipment are attractive to children. For the safety of the children, please keep them away.
3. Please report all inconvenience to the Foreman on the job, or to the City of Escondido Utilities Construction Manager, 760-839-6290 Ext. 7031. The name and phone number of the contractor are given below.

This work is being performed for the City of Escondido by:

We will endeavor to complete this work as rapidly as possible and with a minimum of inconvenience to you.

RESOLUTION NO. 2016-13

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR AND CITY CLERK
TO EXECUTE, ON BEHALF OF THE CITY, A
CONSULTING AGREEMENT WITH BUTIER FOR
CONSTRUCTION MANAGEMENT OF THE
VISTA VERDE RESERVOIR REPLACEMENT
PROJECT - PHASE II

WHEREAS, the Escondido City Council authorized an invitation for bids for the construction of the Vista Verde Reservoir Replacement Project – Phase II (the “Project”); and

WHEREAS, the existing 750,000 gallon steel tank serving the Vista Verde Zone is deteriorating and in urgent need of replacement; and

WHEREAS, the City of Escondido desires construction management services for the Project; and

WHEREAS, the City of Escondido reviewed the proposal from Butier to provide construction management services for the Project; and

WHEREAS, Butier has the personnel and expertise to manage the construction project; and

WHEREAS, City of Escondido staff have completed negotiations with Butier for said construction management services and the Director of Utilities recommends that the Consulting Agreement (“Agreement”) be approved; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve said Agreement in an amount not to exceed \$671,540.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the Mayor and City Council accepts the recommendation of the Director of Utilities.
3. That the Mayor and City Clerk are authorized to execute, on behalf of the City, an Agreement with Butier. A copy of the Agreement is attached as Exhibit "1" and is incorporated by this reference.



CITY OF ESCONDIDO
CONSULTING AGREEMENT

This Agreement is made this _____ day of _____, 20__.

Between: CITY OF ESCONDIDO
a Municipal Corporation
201 N. Broadway
Escondido, California 92025
Attn: Randy Manns
760-839-6290 x7031
("CITY")

And: BUTIER
17782 E. 17th Street, Suite 107
Tustin, CA 92780
Attn: Mark Butier Jr.
714-832-7222
("CONSULTANT")

Witness that whereas:

- A. It has been determined to be in the CITY's best interest to retain the professional services of a consultant to provide construction management and inspection services for the Vista Verde Reservoir Replacement Project – Phase II; and
- B. The CONSULTANT is considered competent to perform the necessary professional services for CITY;

NOW, THEREFORE, it is mutually agreed by and between CITY and CONSULTANT as follows:

- 1. Services. The CONSULTANT will furnish all of the services as described in "Attachment A" which is attached and incorporated by this reference.
- 2. Compensation. The CITY will pay the CONSULTANT in accordance with the conditions specified in "Attachment A," in the sum of \$671,540. Any breach of this Agreement will relieve CITY from the obligation to pay CONSULTANT, if CONSULTANT has not corrected the breach after CITY provides notice and a reasonable time to correct it. If this Agreement is amended at any time, additional compensation of CONSULTANT contained in subsequent amendment(s) shall not exceed a cumulative total of twenty-five percent (25%) of the maximum payment provided for in this Section 2.

3. Scope of Compensation. The CONSULTANT will be compensated for performance of tasks specified in "Attachment A" only. No compensation will be provided for any other tasks without specific prior written consent from the CITY.
4. Duties. CONSULTANT will be responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports and other services furnished by the CONSULTANT under this Agreement, except that the CONSULTANT will not be responsible for the accuracy of information supplied by the CITY.
5. Personnel. The performance of services under this Agreement by certain professionals is significant to the CITY. CONSULTANT will assign the persons listed on "Attachment B," which is attached and incorporated by this reference, to perform the Services described in Paragraph 1, and will not add or remove persons from the list without the prior written consent of the CITY. If no designation is made, then CONSULTANT may not assign services without obtaining the advance written consent of the CITY. CONSULTANT will not subcontract any tasks under this Agreement without obtaining the advance written consent of the CITY.
6. Termination. Either CONSULTANT or the CITY may terminate this Agreement with thirty (30) days advance written notice.
7. City Property. All original documents, drawings, electronic media, and other material prepared by CONSULTANT under this Agreement immediately becomes the exclusive property of the CITY, and may not be used by CONSULTANT for any other purpose without prior written consent of the CITY.
8. Insurance.
 - a. The CONSULTANT shall secure and maintain at its own cost, for all operations, the following insurance coverage, unless reduced by the City Attorney:
 - (1) General liability insurance. Occurrence basis with minimum limits of \$1,000,000 each occurrence, \$2,000,000 General Aggregate, and \$1,000,000 Products/Completed Operations Aggregate; and
 - (2) Automobile liability insurance of \$1,000,000 combined single-limit per accident for bodily injury and property damage, unless waived as provided in 8(b) below; and
 - (3) Workers' compensation and employer's liability insurance as required by the California Labor Code, as amended, or certificate of sole proprietorship; and
 - (4) Errors and Omissions professional liability insurance with minimum coverage of \$1,000,000.
 - b. It is the parties' understanding that the use of a motor vehicle is not a primary subject of this Agreement. CONSULTANT acknowledges that operating a motor vehicle is outside the scope of this Agreement and occurs only at the convenience of the CONSULTANT. A waiver of automobile liability insurance is only effective if both sets of initials appear below, otherwise such insurance is required.

Acknowledged by CONSULTANT _____

Waiver appropriate by CITY _____

- c. Each insurance policy required above must be acceptable to the City Attorney.
 - (1) Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage must be provided by an A.M. Best's A- rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.
 - (2) All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.
 - (3) Both the General Liability and the Automobile Liability policies must name the CITY specifically as an additional insured under the policy on a separate endorsement page. The CITY includes its officials, employees, and volunteers. The endorsement must be ISO Form CG 20 10 11 85 edition or its equivalent for General Liability endorsements and CA 20 01 for Automobile Liability endorsements.
 - (4) The General Liability policy must include coverage for bodily injury and property damage arising from CONSULTANT's work, including its on-going operations and products-completed operations hazard.
 - (5) The General Liability policy must be primary and noncontributory and any insurance maintained by CITY is excess.
 - d. In executing this Agreement, CONSULTANT agrees to have completed insurance documents on file with the CITY within fourteen (14) days after the date of execution. Failure to comply with insurance requirements under this Agreement will be a material breach of this Agreement, resulting in immediate termination at CITY's option.
9. Indemnification. CONSULTANT (which in this paragraph 9 includes its agents, employees and subcontractors, if any) agrees to indemnify, defend, and hold harmless the CITY from all claims, lawsuits, damages, judgments, loss, liability, or expenses, including attorneys' fees, for any of the following:
- a. Any claim of liability arising out of the negligence or any acts or omissions of CONSULTANT in the performance of this Agreement;
 - b. Any personal injuries, property damage or death that CONSULTANT may sustain while using CITY-controlled property or equipment, while participating in any activity sponsored by the CITY, or from any dangerous condition of property; or
 - c. Any injury or death which results or increases by any action taken to medically treat CONSULTANT.
10. Anti-Assignment Clause. The CONSULTANT may not assign, delegate or transfer any interest or duty under this Agreement without advance written approval of the CITY, and any attempt to do so will immediately render this entire Agreement null and void. Unless CONSULTANT assigns this entire Agreement, including all rights and duties herein, to a third party with the CITY'S written consent, CONSULTANT shall be the sole payee under this Agreement. Any and all payments made pursuant to the terms of this Agreement are otherwise not assignable.

11. Costs and Attorney's Fees. In the event that legal action is required to enforce the terms and conditions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs.
12. Independent Contractor. CONSULTANT is an independent contractor and no agency or employment relationship, either express or implied, is created by the execution of this Agreement.
13. Merger Clause. This Agreement and its Attachments, if any, are the entire understanding of the parties, and there are no other terms or conditions, written or oral, controlling this matter. In the event of any conflict between the provisions of this Agreement and any of its Attachments, the provisions of this Agreement must prevail.
14. Anti-Waiver Clause. None of the provisions in this Agreement will be waived by CITY because of previous failure to insist upon strict performance, nor will any provision be waived by CITY because any other provision has been waived, in whole or in part.
15. Severability. The invalidity in whole or in part of any provision of this Agreement will not void or affect the validity of any other provisions of this Agreement.
16. Choice of Law. This Agreement is governed by the laws of the State of California. Venue for all actions arising from this Agreement must be exclusively in the state or federal courts located in San Diego County, California.
17. Multiple Copies of Agreement/Counterparts. Multiple copies and/or counterparts of this Agreement may be executed, including duplication by photocopy or by computerized scanning device. Each duplicate will be deemed an original with the same effect as if all the signatures were on the same instrument. However, the parties agree that the Agreement on file in the office of the Escondido City Clerk is the copy of the Agreement that shall take precedence should any differences exist among copies or counterparts of the document.
18. Provisions Cumulative. The foregoing provisions are cumulative and in addition to and not in limitation of any other rights or remedies available to the CITY.
19. Notices to Parties. Any statements, communications or notices to be provided pursuant to this Agreement must be sent to the attention of the persons indicated below. Each party agrees to promptly send notice of any changes of this information to the other party, at the address first above written.
20. Business License. The CONSULTANT is required to obtain a City of Escondido Business License prior to execution of this Agreement.
21. Compliance with Applicable Laws, Permits and Licenses. CONSULTANT shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, and rules in effect during the term of this Agreement. CONSULTANT shall obtain any and all licenses, permits, and authorizations necessary to perform services set forth in this Agreement. Neither CITY, nor any elected nor appointed boards, officers, officials, employees, or agents of CITY shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.

22. Prevailing Wages. If applicable, pursuant to Section 1770 et seq. of the Labor Code, CONTRACTOR agrees that a prevailing rate and scale of wages, in accordance with applicable State and Federal Law, will be paid in the carrying out of this Agreement. CONTRACTOR shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, and rules pertaining to the payment of prevailing wages. The prevailing rate and scale to be paid shall be the same as the 'General Prevailing Wage Rates' approved by the Department of Industrial Relations as of the date of the execution of this Agreement. Said rates and scales are herein referred to and adopted in this Agreement as though fully and completely set forth herein, and said scale as adopted by the Department is made a part of this Agreement by reference. Copies of the prevailing rate of per diem wages are available on the Intranet at (<http://www.dir.ca.gov/DLSR>). Neither CITY, nor any elected nor appointed boards, officers, officials, employees, or agents of CITY, shall be liable, at law or in equity, as a result of any failure of CONTRACTOR to comply with this section.

23. Department of Industrial Relations Compliance. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONTRACTOR shall post any job site notices required by regulation. CONTRACTOR, as well as any subcontractors, shall be registered pursuant to Cal. Lab. Code § 1725.5 to be qualified to bid on, be listed in a bid proposal, (subject to the requirements of Section 4104 of the Public Contract Code) or engage in the performance of any public work contract that is subject to the requirements of Chapter 1, Part 7, Division 2 of the California Labor Code. Neither CITY, nor any elected nor appointed boards, officers, officials, employees, or agents of CITY, shall be liable, at law or in equity, as a result of any failure of CONTRACTOR to comply with this section.

24. Immigration Reform and Control Act of 1986. CONSULTANT shall keep itself informed of and comply with the Immigration Reform and Control Act of 1986. CONSULTANT affirms that as an employer in the State of California, all new employees must produce proof of eligibility to work in the United States within the first three days of employment and that only employees legally eligible to work in the United States will be employed on this public project. CONSULTANT agrees to comply with such provisions before commencing and continuously throughout the performance of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties below are authorized to act on behalf of their organizations, and have executed this Agreement as of the date set forth below.

CITY OF ESCONDIDO

Date: _____

Sam Abed
Mayor

Date: _____

Diane Halverson
City Clerk

BUTIER

Date: _____

(Consultant signature)

Title

(The above signature must be notarized)

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

THE CITY OF ESCONDIDO DOES NOT DISCRIMINATE AGAINST QUALIFIED PERSONS WITH DISABILITIES.

January 4, 2016

Randy Manns
City of Escondido
Utilities Construction Project Manager
Office: (760) 839-6290, Ext. 7031
Email: rmanns@escondido.org

Subject: Construction Management and Inspection Services Attachment A for the Vista Verde Reservoir Replacement Project — Phase II

Dear Mr. Manns:

The following Construction Management and Inspection Services are outlined below and are in accordance with the RFP Issued on November 18, 2015 to Butier, **Not to Exceed Fee Proposal for the amount of \$671,540 or, 6.67% of the project Bid Award.** See Attachment A, for CM Scope of Services, and Exhibit A, Fee Proposal.

ATTACHMENT A

CONSTRUCTION MANAGEMENT – SCOPE OF SERVICES

Task 1 Coordination Efforts

- Coordinate all special inspections - not required of the contractor.
- Coordinate, review and observe all equipment testing and start up.
- Coordinate with City staff (COE Water Department) on the major tie-ins and facility connections.

Time and Material Fee: \$4,482

Task 2 Inspection Requirements

- Monitor project permit conditions and related expiration dates and inform the City and Contractor when non-compliance is observed.
- Monitor and ensure Contractor's compliance with all requirements of project design specifications and drawings.
- Monitor Contractor's schedule each week, including the previous weeks' progress and Contractor's anticipated work. Make recommendations as necessary and inform the City as necessary of schedule issues.

Time and Material Fee: \$570,809

17782 E. 17th St.
Suite 107
Tustin, CA 92780
Tel (714) 832-7222
Fax (714) 832-7211

Task 3 Document Control

- Perform photographic documentation of construction activities in digital format.
- Update project red line drawings during construction and review contractor red lines during course of construction.
- Preparation of written daily field reports for submittal to the City. Reports should include work performed, labor and equipment utilized, and a discussion of any work not conforming to the plans and specifications.
- Observe and record all major materials delivery to the site to document they are in accordance with the specifications and approved shop drawings.
- Provide document control including processing and filing all project correspondence, documents, and drawings including conversion of all received documents into a pdf format. All documentation shall be accessible to the City via cloud-based storage such as Drop Box.

Prepare monthly construction management reports to include a detailed description of work completed, schedule status, submittals status, RFI status, design revision status, progress payment and overall contract status, and project photographs. The monthly reports will be prepared in a City-approved format including color copies of 6 or more digital photographs with captions of work performed. Electronic copies of the monthly reports shall be accessible to the City via cloud-based storage such as Drop Box.

Electronic files, pdfs of pertinent contract documents and records shall be maintained. Electronic files, pdfs of pertinent contract documents and records shall be maintained with your firm and a final copy of all records shall be submitted to the City on formatted CD disks.

Time and Material Fee: \$13,422

Task 4 Project Management

- Conduct weekly progress meetings, schedule meetings with the Contractor, the City, and others as necessary and prepare and distribute meeting minutes via email.
- Administer and track all Submittals and Requests for Information, via the City's design engineer consultant; and any Change Order Requests from the contractor, as well as other related matters. Provide appropriate response and/or recommendations to and from the City and consult with City and Design Team on all technical matters. Notify all parties of issues that might impact the critical path schedule. Negotiate and recommend Change Orders on behalf of the City.
- Monthly progress pay estimates including review of Contractor's work progress will be completed with the City representative. Provide a thorough review for accuracy, and comparison with actual work completed. Make appropriate recommendations to the City on payment issues.

- Conduct and coordinate preliminary and final walk-throughs with punch lists, start-up & testing, and closeout.
- Provide any needed claim support through final resolution. Mitigate existing issues and resolve all future issues at the lowest level possible to avoid claims.
- Attend the pre-construction meeting and participate as the CM.
- Organize and facilitate a pre-construction Partnering Session with the bid awarded contractor to discuss any potential design related issues, preliminary requests for information or other items that might help expedite, ease or promote a positive construction start.
- Facilitate an intermediary Partnering Session, if at some point during construction it is deemed necessary.

Time and Material Fee: \$58,827

Other

- **Field Office** and overhead support is projected to be approximately \$24,000.

Time and Material Fee: \$24,000

Services not included in CM Scope:

- Does not include special inspection requirements (i.e. geotechnical, welding, SWPPP)

Fees

All work for Tasks 1 through 4 in this proposal will be performed for a time and materials fee, not to exceed \$ **671,540**. The cost breakdown is shown below:

Task No.	Task Description	Total Cost
Task 1	Coordination Efforts	\$4,482
Task 2	Inspection Requirements	\$570,809
Task 3	Document Control	\$13,422
Task 4	Project Management	\$58,827
Other	Field Office Support	\$24,000
Total	Total T&M Cost	\$671,540

Mr. Randy Manns
Page 4 of 4

Exhibit A: spreadsheet listing various tasks per cost

Rates for Construction Management Team

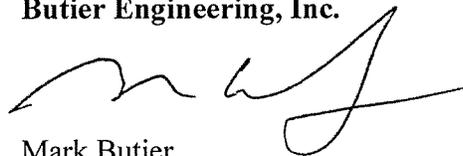
Rates for the CM Team include vehicle mileage, computers, computer software, printers reproduction, prints, plotting and record mapping copies, digital cameras, digital video cameras, cell phones and cell phone service, broadband service, delivery service, mail, office supplies, technical reference materials, training, and personal protective equipment (PPE) including hard hats, safety boots, work gloves, safety glasses and other PPE as required.

ATTACHMENT B:

List of Personnel

Name	Title	Role
Jason Kraus, PE	Construction Manager/ Inspector	Provide Construction Management support to the Field Engineer and Field Inspector, (ie large change order negotiations, claim support, etc.)
Bryan Wilson	RE/Field Inspector	City's one point contact performing all construction management duties and providing support to the Field Inspector. along with daily inspection and document control, etc.
William Baker	Field Inspector	Provide field inspection, document control, and supporting the Field Engineer
Casey Harris	Sr. Scheduler	Provide scheduling support to the CM Team

Respectfully Yours,
Butier Engineering, Inc.



Mark Butier
Vice President/CFO

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 18
Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council
FROM: Christopher W. McKinney, Director of Utilities
SUBJECT: Increase Application Amount of Future SRF Loans for Three Recycled Water Distribution Expansion Projects

RECOMMENDATION:

The Utilities Department requests that the City Council adopt Resolutions No. 2016-09, No. 2016-10, and No. 2016-11 authorizing repayment of three State Revolving Fund (SRF) Loans for Capital Improvement Projects (CIPs) that are part of the recycled water distribution system expansion. The repayment resolutions would increase the authorized application amount for each project as described below.

FISCAL ANALYSIS:

The recommended action would increase the amount authorized by the City Council for SRF Loan Application for three projects:

1. Recycled Water Reverse Osmosis Facility – from \$19.0 M for \$29.0 M
2. Recycled Water Easterly Agriculture Distribution System – from \$3.3 M for \$4.3 M
3. Brine Line from Broadway to HARRF – from \$4.0 M for \$5.0 M

The total value of these loans, if the applications are approved by the Department of Water Resources and the City Council approves entering into loan agreements, will increase from \$26.3 million to \$38.3 M. If these loans are financed over 20 years, annual debt service payments will be \$2.2 million and the total interest paid over the life of the loan will be \$6.3 M. If these loans are financed over 30 years, annual debt service payments will be \$1.6 million and the total interest paid over the life of the loan will be \$9.5 M. Both of these scenarios assume an annual interest rate of 1.5%. In either case, the Wastewater Fund has sufficient debt capacity to meet these debt service requirements.

PREVIOUS ACTION:

The City Council has taken several past actions concerning the SRF loan applications for these three projects:

On September 24, 2014, the City Council adopted resolution 2014-135, authorizing the Director of Utilities to submit Financial Assistance Applications for the Recycled Water Microfiltration Reverse Osmosis Facility.

On May 6, 2015, the City Council adopted resolution 2015-40, authorizing the Director of Utilities to submit Financial Assistance Applications for the Recycled Water Easterly Agriculture Distribution System. On September 23, 2015, the City Council adopted resolution 2015-159 authorizing repayment of this loan once the pending applications are approved by the State and fund disbursement is approved by the City Council.

On May 6, 2015, the City Council adopted resolution 2015-40, authorizing the Director of Utilities to submit Financial Assistance Applications for the Brine Line from Broadway to HARRF. On September 23, 2015, the City Council adopted resolution 2015-158 authorizing repayment of this loan once the pending applications are approved by the State and fund disbursement is approved by the City Council.

BACKGROUND:

The California Department of Water Resources (DWR) is using the SRF loan application process to consider projects for California Prop. 1 grant funding. If a project is awarded a grant via the SRF application process, that amount will be deducted from the amount to be repaid via the loan. Therefore, the City will maximize free and low cost funding by applying for SRF funding for the full construction cost of the project. The amount of grant funding will not be known until a decision is made by DWR concerning the loan application in six to nine months. The City is not obligated to take the full loan amount offered and can instead choose to use CIP reserves or revenue from ratepayers rather than SRF loan funds.

As described under "PREVIOUS ACTION," the City Council has already authorized submission of application for SRF loans to fund these three projects. The action recommended here will authorize, via resolutions, increasing the loan amounts for which the City is applying, as well as repayment of any loans awarded to the Wastewater Fund for these three specific projects. These resolutions are required under the terms of the Frequent Financer Program. If DWR approves the loans, City Council approval will again be necessary to accept the funds. This final approval to accept funds is not being sought as part of these resolutions.

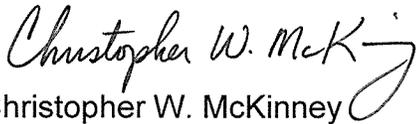
A brief description of the three projects follows:

Recycled Water Microfiltration Reverse Osmosis Facility - A project within the Agricultural Recycled Water and Potable Reuse Program. This project will construct a facility to remove salt from the recycled water supply via microfiltration and reverse osmosis. The lower salt concentration is needed if the water is to be used for crop irrigation.

Recycled Water Easterly Agriculture Distribution System - A project within the Agricultural Recycled Water and Potable Reuse Program. This project will construct approximately 11,000 feet of distribution pipeline and 8 service connections to supply recycled water to agricultural customers. Two recycled water emergency storage ponds are also included within the project.

Brine Line - Broadway to HARRF - A project within the Recycled Water for Agriculture and Potable Reuse Program. This project will construct approximately 2.3 miles of 15-inch brine return pipeline from Broadway (near Grape Day Park) to the Hale Avenue Resource Recovery Facility (HARRF). The project enables discharge of brine recovered from treated recycled water at the Microfiltration Reverse Osmosis Facility.

Respectfully submitted,



Christopher W. McKinney
Director of Utilities

RESOLUTION NO. 2016-09

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE UTILITIES DIRECTOR OR
HIS DESIGNEE, TO BE THE CITY'S
REPRESENTATIVE FOR THE REIMBURSEMENT
OF THE STATE REVOLVING FUND (SRF) LOAN
PROGRAM

WHEREAS, the City of Escondido ("City") is interested in participating in the State Water Resources Control Board's ("SWRCB") low-interest loan program for projects contained within the Agricultural Recycled Water and Potable Reuse Program ("Program"); and

WHEREAS, the City intends to finance construction of the Recycled Water Microfiltration Reverse Osmosis Facility ("Project") within the Program with moneys ("Project Funds") provided by the State; and

WHEREAS, the City, prior to approval by SWRCB of Project Funds, will incur capital expenditures ("Expenditures") with respect to the Project from available moneys of the City; and

WHEREAS, the City has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the Project Funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.

2. That the City Council of the City of Escondido hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the approval of Project Funds by the SWRCB.

3. That this resolution authorizes the Director of Utilities or his designee to sign and file for, on behalf of the City, Financial Assistance Applications for loans from the SWRCB in the reasonably expected maximum principal amount of \$29 million for construction of the Recycled Water Microfiltration Reverse Osmosis Facility.

4. That City Council authorizes the aforementioned representative or his designee to certify that the City has and will comply with all applicable state and federal statutory and regulatory requirements related to any federal and state loan funds received.

5. The Director of Utilities or his designee is hereby authorized to negotiate and execute a loan contract and any amendments or change orders thereto on behalf of the City of Escondido.

RESOLUTION NO. 2016-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE UTILITIES DIRECTOR OR HIS DESIGNEE, TO BE THE CITY'S REPRESENTATIVE FOR THE REIMBURSEMENT OF THE STATE REVOLVING FUND (SRF) LOAN PROGRAM

WHEREAS, the City of Escondido ("City") is interested in participating in the State Water Resources Control Board's ("SWRCB") low-interest loan program for projects contained within the Agricultural Recycled Water and Potable Reuse Program ("Program"); and

WHEREAS, the City intends to finance construction of the Recycled Water Easterly Agriculture Distribution System ("Project") within the Program with moneys ("Project Funds") provided by the State; and

WHEREAS, the City, prior to approval by SWRCB of Project Funds, will incur capital expenditures ("Expenditures") with respect to the Project from available moneys of the City; and

WHEREAS, the City has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the Project Funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.

2. That the City Council of the City of Escondido hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the approval of Project Funds by the SWRCB.

3. That this resolution authorizes the Director of Utilities or his designee to sign and file for, on behalf of the City, Financial Assistance Applications for loans from the SWRCB in the reasonably expected maximum principal amount of \$4.3 million for construction of the Recycled Water Easterly Agriculture Distribution System.

4. That City Council authorizes the aforementioned representative or his designee to certify that the City has and will comply with all applicable state and federal statutory and regulatory requirements related to any federal and state loan funds received.

5. The Director of Utilities or his designee is hereby authorized to negotiate and execute a loan contract and any amendments or change orders thereto on behalf of the City of Escondido.

RESOLUTION NO. 2016-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE UTILITIES DIRECTOR OR HIS DESIGNEE, TO BE THE CITY'S REPRESENTATIVE FOR THE REIMBURSEMENT OF THE STATE REVOLVING FUND (SRF) LOAN PROGRAM

WHEREAS, the City of Escondido ("City") is interested in participating in the State Water Resources Control Board's ("SWRCB") low-interest loan program for projects contained within the Agricultural Recycled Water and Potable Reuse Program ("Program"); and

WHEREAS, the City intends to finance construction of the Brine Line from Broadway to HARRF ("Project") within the Program with moneys ("Project Funds") provided by the State; and

WHEREAS, the City, prior to approval by SWRCB of Project Funds, will incur capital expenditures ("Expenditures") with respect to the Project from available moneys of the City; and

WHEREAS, the City has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the Project Funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.

2. That the City Council of the City of Escondido hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the approval of Project Funds by the SWRCB.

3. That this resolution authorizes the Director of Utilities or his designee to sign and file for, on behalf of the City, Financial Assistance Applications for loans from the SWRCB in the reasonably expected maximum principal amount of \$5 million for construction of the Brine Line from Broadway to HARRF.

4. That City Council authorizes the aforementioned representative or his designee to certify that the City has and will comply with all applicable state and federal statutory and regulatory requirements related to any federal and state loan funds received.

5. The Director of Utilities or his designee is hereby authorized to negotiate and execute a loan contract and any amendments or change orders thereto on behalf of the City of Escondido.

Agenda Item No.: 19

Date: January 13, 2016

TO: Honorable Mayor and Members of the City Council

FROM: Helen M. Davies, Environmental Programs Manager, Utilities

SUBJECT: Approval of Storm Water Design Manual to Comply with R9-2013-0001

RECOMMENDATION:

The Utilities Department requests that the City Council approve Resolution No. 2016-001 in order to adopt the Model Regional Best Management Practice Design Manual ("Storm Water Design Manual") prepared for the City of Escondido. The document can be found online at <https://www.escondido.org/bmps-for-new-development-redevelopment.aspx>.

FISCAL ANALYSIS:

The costs for design of, as well as compliance with, the Storm Water Design Manual will be borne by project applicants. The City of Escondido will be required to comply with the Storm Water Design Manual when Capital Improvement projects trigger the requirements for compliance. The Public Works Department collects a fee of \$750.00 for the review and approval of projects currently subject to storm water design requirements and this practice will continue with the adoption of the Storm Water Design Manual.

PREVIOUS ACTION:

Per the requirements of the San Diego Regional Water Quality Control Board (RWQCB), the City adopted the latest version of the Standard Urban Stormwater Mitigation Plan on January 12, 2011. The proposed Storm Water Design Manual updates and replaces this document. On May 6, 2015, the City Council adopted the Jurisdictional Runoff Management Plan and the Water Quality Improvement Plans for the San Dieguito and Carlsbad watersheds, required to comply with R9-2013-0001. The adoption of the Storm Water Design Manual ("BMP Design Manual") is the final document to update the City's Storm Water Program in order to comply with R9-2013-0001.

BACKGROUND:

The City was required to work collaboratively with the County of San Diego and other cities within the County to develop a Model Regional Best Management Practice Design Manual to comply with the requirements of R9-2013-0001 relating to all new development and redevelopment. These requirements updated the types of projects that would be subject to these requirements and set the standard of 100 percent retention of the design capture volume (24-hour 85th percentile storm event) onsite. If the design capture volume cannot be fully retained onsite, then the untreated portion should

be treated through biofiltration. If the full volume cannot be retained or treated, then an offsite alternative compliance option is required.

A summary of the main changes is presented below:

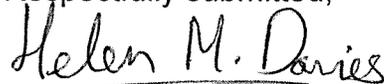
1. Clarification that Site Design Low Impact Development and Source Control Best Management Practices are required on all development projects.
2. Requirement to control flow rates to predevelopment (not pre-project) runoff levels.
3. Requirement to evaluate each project for critical coarse sediment supply and to maintain that supply when the project is developed.
4. Example submittal templates are provided.

The Storm Water Design Manual is likely to be revised and contains templates that will likely be revised based on feedback from users and the RWQCB. Staff requests that minor changes to the Manual be approved by the Director of Utilities.

Consistent with these developments, options for alternative compliance for projects that cannot meet these enhanced requirements are being developed. Based on a review of our current projects, there are few, if any, that are unable to incorporate the new standards into their designs. Water quality equivalency (how much of an offsite project is needed to replace an onsite project) guidelines have been developed regionally for applicant-implemented structural projects and are anticipated to be approved by the RWQCB during the first quarter of 2016. Once approved by the RWQCB, applicant-proposed projects can be used for alternative compliance. A credit system is being developed regionally, to be completed by the end of the fiscal year, and a system for in lieu fees will be developed after that. The City has conducted a hydraulic study to identify potential alternative compliance projects within Escondido, and staff continues to develop an alternative compliance system for the City with the goal of presenting it in 2016.

Additional language has since been added to the permit clarifying when a project has prior lawful approval in which a Copermittee may allow previous land development requirements to apply ("grandfathering"). In these cases, the storm drain system, including runoff treatment structures, will have been fully designed; a permit will have been issued for the construction of the project; it has been confirmed that construction was been underway either 365 days before or 180 days after the Manual was effective; and all other permits required for the development have been issued within 5 years of the effective date of the Manual.

Respectfully submitted,


Helen M. Davies, M.S., GPSWQ
Environmental Programs Manager

Attachment: CEQA Notice of Exemption



CITY OF ESCONDIDO
 PLANNING DIVISION
 201 NORTH BROADWAY
 ESCONDIDO, CA 92025-2798
 (760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
 Attn: Deputy County Clerk
 P.O. Box 121750
 San Diego, CA 92112-1750

From: City of Escondido
 Planning Division
 201 North Broadway
 Escondido, CA 92025

Project Title/Case No.: City of Escondido Storm Water Design Manual

Project Applicant: City of Escondido

Project Location - Specific: Citywide

Project Location - City: Escondido

Project Location - County: San Diego

Description of Nature, Purpose and Beneficiaries of Project: The Storm Water Design Manual is created to comply with the San Diego Regional Water Quality Control Board (RWQCB) Order R9-2013-0001: National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (MS4 Permit). It is the update to the existing Standard Urban Stormwater Mitigation Plan (SUSMP) required by the Permit. It will provide guidance to commercial, industrial, residential and municipal developments within the City of Escondido with the goal to eliminate storm water pollution for the protection of the local watersheds.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project: City of Escondido

Name: Helen Davies, Environmental Programs Manager

Telephone: 760-839-6315

Address: 201 N. Broadway, Escondido, CA 92025

Private entity School district Local public agency State agency Other special district

Exempt Status:

Categorical Exemption. CEQA Section 15308, "Actions by Regulatory Agencies for Protection of the Environment," Class 8 and CEQA Section 15307, "Actions by Regulatory Agencies for Protection of Natural Resources," Class 7

Reasons why project is exempt:

1. The MS4 permit requires that local jurisdictions update their existing storm water design manual (SUSMP).
2. Regulations herein serve to protect natural resources and the environment.
3. Construction activities are not part of this project and are not included in this exemption.

Lead Agency Contact Person: Area Code/Telephone/Extension (760) 839-4536

Signature: Rozanne Cherry
 Rozanne Cherry, Principal Planner

01/05/2016
 Date

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant

RESOLUTION NO. 2016-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR AND CITY CLERK, TO ADOPT, ON BEHALF OF THE CITY, THE STORM WATER DESIGN MANUAL TO COMPLY WITH RWQCB ORDER NUMBER 2013-0001

WHEREAS, the City of Escondido is a Copermitee subject to Regional Water Quality Control Board ("RWQCB") Order No. R9-2013-0001, National Pollutant Discharge Elimination System ("NPDES") Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems ("MS4s") Draining the Watersheds within the San Diego Region ("MS4 Permit"); and

WHEREAS, the City was required to work collaboratively with the County of San Diego and other cities within the County to develop a "Model Regional Best Management Practice Design Manual" to comply with the requirements of R9-2013-0001 relating to all new development and redevelopment; and

WHEREAS, the Model Regional Best Management Practice Design Manual was prepared and submitted to the RWQCB on June 26, 2015; and

WHEREAS, the RWQCB has commented on the Model Regional Best Management Practice Design Manual during the public comment period and where appropriate their recommended changes were made; and, the RWQCB have revised R9-2013-0001 to clarify a definition of projects subject to these requirements to address one outstanding comment on the Model Regional Best Management Practice Design Manual; and

WHEREAS, the Model Regional Best Management Practice Design Manual has been updated for use in the City and will be known as the “Storm Water Design Manual” for the City of Escondido;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California:

1. That the above recitations are true.
2. That the City Council authorizes the adoption of the Storm Water Design Manual for the City of Escondido effective February 16, 2016, and allow minor revisions to the Storm Water Design Manual to be approved by the Director of Utilities.



FUTURE CITY COUNCIL AGENDA ITEMS
January 7, 2016

*AGENDA ITEMS AND COUNCIL MEETING DATES ARE SUBJECT TO
CHANGE. CHECK WITH THE CITY CLERK'S OFFICE AT 839-4617*

January 20, 2016
No Meeting (MLK Day)

January 27, 2016
No Meeting

City Manager's **WEEKLY UPDATE** to City Council

January 7, 2016

STORM-RELATED DAMAGE

The following is a status of storm-related damage/issues:

- The Goodwill Store at 606 W. Washington had a partial roof collapse. Workers were on site when the collapse occurred. About a 30'x30' north eastern portion of the roof collapsed and damaged the fire sprinkler system. It was the fire alarm and water flow that activated 911. Fire units arrived, secured the scene, shut down the sprinkler system, and taped off the collapsed area. The Building Dept. was notified and an inspector was sent to the scene. The building has been posted for limited entry; the facility will be off-limits to the general public, but Goodwill clean-up crews and staff will be allowed access. A Structural Engineer will need to be retained by Goodwill to assess the damage and prepare a repair plan which involves an over-the-counter permit that we will expedite upon submittal.
- One house flooded on Martin Street. Crews cleared the inlet and got the storm drain working again.
- Lake Wohlford Road had minor rock falls that were cleared and the road remains open. Crews are monitoring for further falls.
- Mission Pools area - Additional debris was removed and there is good flow through the storm drain system.
- Dog Park – A large Pepper tree fell down with damage to fence along the storm drain channel. No danger to public.
- Another tree fell down along Felicita and it has been removed from the right-of-way.
- An estimated 4500 sand bags have been handed out so far for this event. Sand was replenished at Kit Carson Park on Thursday morning (Jan. 7). Escondido Sand & Gravel (George Weir) generously provided two free loads to the City.
- Public Works/Operations has set up a response center at the Yard to coordinate and monitor PW issues associated with this storm event.
- There were minor leaks at city facilities including the building leased to COMPACT.
- Awaiting status on Train Station Roof at this time.
- Storm Drain patrols in all 4 quadrants of city plus good communication between departments is working very well.
- A 5-6 foot boulder fell into the Escondido Canal causing some damage to the canal wall when it fell in. Staff will remove it on Thursday and repair the damage, weather permitting.

City Manager's WEEKLY UPDATE to City Council



- The County of San Diego has requested the public's help in collecting flood damage information throughout the region. Residents and businesses that have experienced significant flood damage, are asked to complete the following "Damages Resulting From Disasters Form found at: <http://sdcountyrecovery.com/damages-resulting-from-disaster> . This information has been posted on the City's website.

Please note: This is not an application for assistance. This form will be used to gain a better understanding of the scope of flood damage countywide.

ECONOMIC DEVELOPMENT

Recently the San Diego Union Tribune ran a positive piece about the establishment of the East Valley Parkway Business group and the Neighborhood Transformation Project. The article can be found at : <http://www.sandiegouniontribune.com/news/2015/dec/31/escondido-parkway-valley-group/>



City Manager's **WEEKLY UPDATE** to City Council

SPECIAL EVENTS

No major special events scheduled this weekend.

COMMUNITY DEVELOPMENT

Public Art:

Queen Califia's Magical Circle in Kit Carson Park (3333 Bear Valley Parkway) will NOT be open to the public on Saturday January 9, 2016, due to inclement weather.

Planning:

Major Projects Update:

1. John Paul the Great Catholic University – *No change from the following update reported last week:* A Conditional Use Permit to expand the campus and student enrollment at 155 W. Grand Avenue was approved by the Planning Commission on December 8, 2015. The proposal includes improvements to the former H. Johnson Building at 131 S. Broadway for studio and classroom space, and the former bank at 200 W. Grand Avenue for administrative offices and a student resource center. The proposed expansion would also increase the student enrollment from 300 to 1,200 students over the next several years. Staff has confirmed the availability of water and sewer connections.
2. Escondido Research Technology Center – *No change from the following update reported last week:* A 72,000 square foot medical office building is proposed on the east side of Citracado Parkway across from Palomar Medical Center. A plot plan application has been approved. Grading and landscaping plans are in plan check for approval. The City Council approved a 10-year extension to the previously adopted Development Agreement for ERTC that involves 20 lots in ERTC owned by JRMC on November 4, 2015.
3. Oak Creek (NUW) – A 65-unit single family development located at the southeastern corner of Felicita Road and Hamilton Lane. The LAFCO Board unanimously approved the annexation on October 5, 2015. Staff has returned documents to LAFCO memorializing their action that included final paperwork to be completed prior to annexation recordation.
4. Amanda Estates (NUW) – A 22-unit single family development on Amanda Lane. The LAFCO Board approved the reorganization (annexation) at their meeting on August 3, 2015. Staff has returned documents to LAFCO memorializing their action that included final paperwork to be completed prior to annexation recordation.
5. Centerpointe 78 Commercial – *No change from the following update reported last week:* A 45,650 sq. ft. Supermarket and restaurant located at 925 N. Broadway. The project was approved by the Planning Commission on November 10, 2015. The project was approved

City Manager's WEEKLY UPDATE to City Council

by the City Council meeting on December 9, 2015 and filing fees were paid to the County for the EIR.

6. Pradera – *No change from the following update reported last week:* A 70 unit single family development located at the northeastern corner of Ash Street and Lehner Avenue. Grading is underway, staff is reviewing improvement plan and the final map submittals, as well as the precise grading plans and landscaping plans. Building Plans for three, two-story model homes have been completed and the units are currently under construction and are undergoing building inspections. A fourth single-story unit will be marketed with this development, but no model home for the single story unit will be constructed.
7. Zenner – *No change from the following update reported last week:* A 40-unit single family development at the northeastern corner of Lehner Avenue and Vista Avenue. Staff received concept building elevations from the homebuilder, KB Homes, and conducted Design Review evaluations with comments forwarded back to the architect. The annexation was approved by LAFCO on Sept. 14, 2015. Staff has returned documents to LAFCO memorializing their action that included final paperwork to be completed prior to annexation recordation.
8. Stella Park Condominiums – *No change from the following update reported last week:* A 65-unit townhome Planned Development located at 2516 S. Escondido Blvd. The applicant is contracting with consultants for preparation of numerous technical studies (including a Water Quality Technical Report) and the CEQA document which is anticipated to be a mitigated negative declaration. Staff met with the applicant to discuss submittal requirements from prior city comments and is providing information regarding existing conditions to include in the environmental review analysis.
9. Wohlford – A 55-unit single family development located on Bear Valley Parkway east of Encino Drive. Staff has reviewed revised submittals and technical reports from the applicant. A Specific Alignment Plan for Bear Valley Parkway detailing the roadway is under review. Staff concluded interviews with four consulting firms this week and has contacted the consultant selected for preparing the EIR to begin drafting a scope of work and budget for the EIR. Tribal consultation meetings have been completed.
10. Latitude II – The 112-unit multi-family development, located at the northeastern corner of Centre City Parkway and Mission Avenue, was approved by the City Council on August 19, 2015. Grading plans and a Final Subdivision Map have been submitted for review. Architectural plans have been submitted for plan check and are under review.
11. Canyon View Estates (Tract 932) – *No change from the following update reported last week:* 179-lot single family residential development. Staff approved the substantial conformance determination for the revised tentative map and continues to coordinate with the applicant on the proposed grading plan. The Precise Plan application was submitted on Aug. 6, 2015; additional information is needed to complete the application. The applicant is

City Manager's WEEKLY UPDATE to City Council

pursuing purchase of mitigation credits at Daley Ranch, and pursuing acquisitions needed for offsite improvements.

12. Safari Highlands – A 550-unit single family development located east of the Rancho San Pasqual community and north of the San Diego Safari Park. This project involves 1,100 acres including annexation and Sphere of Influence update for a master planned community with parks, trails, recreation center, fire station, open space, on-site sewer facility for treating a portion of the on-site wastewater for irrigation purposes. Planning and Engineering extensions of staff have been funded by the applicant and retained to assist the city in processing the project. Staff met with a representative of the Fish and Wildlife Department to discuss the project. Other outreach efforts have included City of San Diego, Safari Park representatives, public agencies and surrounding residents. A Request for Proposals was issued to solicit bids for the preparation of a consultant-prepared Environmental Impact Report (EIR) and submittals are due on January 8th. More information about this project is on line at: <http://www.escondido.org/safari-highlands-ranch-specific-plan.aspx>
13. Felicita Development, LLC – *No change from the following update reported last week:* A 140-unit hotel, and a gas station or office/residential care facility at the southeast corner of Felicita Rd. and Gamble Lane. The applicant and staff met with the architect this week to discuss building elevations, 5-story height limitations and site design issues given the existing wetland constraints on the property. Additional technical analysis and coordination is needed to address traffic, biology, water and sewer service, geotechnical and storm water concerns, along with a market study for the proposed uses. The applicant is responding to technical studies needed to complete the application.
14. Escondido Disposal Inc. – *No change from the following update reported last week:* The CUP modification to expand the existing facility was approved by the Planning Commission on August 25, 2015. The project has completed its post-approval plan check process. Staff has approved the grading and landscape plans. Demolition has commenced on a portion of the site where redevelopment will occur. The County has notified the City that the applicant has made their application to the State permitting agency. Staff has resolved storm drain issues involving the subject site and adjacent properties.
15. Westfield Theater – *No change from the following update reported last week:* A 10-auditorium movie theater totaling 57,600 sq. ft. located on the north side Westfield Shoppingtown. The project was approved by the City Council on November 4, 2015.
16. Paseo Escondido – *No change from the following update reported last week:* A mixed-use 122-unit multi-family planned development at the southwestern corner of Ash Street and Washington Ave. The proposed project consists of 26 one-bedroom and 96 two-bedroom apartments in three four-story buildings, and two 5,000 SF commercial buildings (10,000 SF total) oriented around an outdoor plaza. Additional submittals required to complete the application.

City Manager's WEEKLY UPDATE to City Council

17. High Pointe (Palos Vista Neighborhood 3) – *No change from the following update reported last week:* A custom-home development with 39 estate lots accessed from Mesa Rock Road. Staff has prepared a bond and fee letter based on the proposed grading and landscape plans, and has sent it to the applicant.
18. Valiano (County Project) – *No change from the following update reported last week:* The project is outside of the City's limits and is being processed by the County. At the December 9th City Council meeting, the traffic mitigation funding agreement and sewer service MOU were approved. A letter was sent to the County confirming that no outstanding issues remain with the City regarding the project.
19. Springhill Suites – A 105-suite hotel totaling 73,300 sq. ft. located at 300 La Terraza Drive involving 4 stories, a small conference room and an enlarged lobby for serving continental breakfast. The project has undergone two building plans checks for this planned development. A revised set of grading and landscaping plans were submitted involving the hotel site and the parking lot of the adjacent property for review, and department comments are being finalized.
20. Del Prado (former Woody's site) – *No change from the following update reported last week:* A 113-unit Planned Development located at the southwestern corner of Brotherton Road and the Centre City Parkway frontage road. The project includes a recreational facility, pool, and open space areas Staff has met with the applicant to address sewer and emergency access and engineering issues. A revised set of plans was submitted responding to staff comments. Staff is working with the applicant to develop street striping plans around the project's frontages for ensuring safe traffic movement.
21. BMW Dealership – *No change from the following update reported last week:* A Precise Plan application to expand the existing dealership showroom an additional approximately 4,000 square feet and enhance the building façade at 1557 Auto Park Way was approved by the Planning Commission on October 13, 2015. Building plans have been submitted and are in plan check process.
22. Solutions for Change – A Planned Development application for 33 affordable multi-family units was approved by the Planning Commission on October 13, 2015, and by the City Council November 18, 2015. Building plans have been submitted for review and a comment letter is being prepared. Staff authorized payment of Housing Division funds for reimbursement of applicant's consultant invoices. Staff met with the applicant to discuss engineering plan corrections.
23. Escondido Auto Park Association – *No change from the following update reported last week:* The association is proposing to upgrade the existing electronic message sign along I-15. On September 23, 2015, the Economic Development Subcommittee considered a request by the association to enter into an agreement with the City for reimbursement of a

City Manager's WEEKLY UPDATE to City Council

portion of the cost of the upgraded sign and expressed support for a five-year agreement based on anticipated public benefit of additional sales tax revenue. Staff has confirmed with the applicant sign application and submittal process.

24. 701 San Pasqual Valley Rd – *No change from the following update reported last week:* A 19-unit single family development located at 1201 E. 5th Avenue (formerly Tract 898) on 7.2 acres. The application is under review and a letter detailing additional comments and submittal requirements was forwarded to the applicant.
25. Ford-Hyundai Dealership Expansion – *No change from the following update reported last week:* An expansion involving approximately 13,000 sq. ft. of showroom buildings and 6,700 sq. ft. wash/detail building at 1717-1919 Auto Park Way was approved by the Planning Commission on June 23, 2015. Grading plans have been submitted and staff anticipates building plans to be submitted in the next several weeks.

Building Division:

1. For this shortened holiday week, the Building Department issued 37 permits for the week with a total valuation of \$53,377.
2. 19 photovoltaic permits were issued for the week. Building issued 1,440 solar permits this year compared to 800 issued last year.
3. The Building Division issued a record breaking 3,624 permits in 2015. Inspectors conducted 12,280 inspections and a record 9,109 people came to the building counter for assistance this year.
4. Building inspectors and counter staff experienced a slight holiday slow down with inspections averaging 33 inspections per day and counter contacts averaging 23 per day with 16 customers on New Year's Eve.
5. In addition to the expedited solar permitting now available, residential roof top solar projects that qualify to be expedited, can be accepted electronically through e-mail. More information is provided on the city's website.
6. The 76-unit condominium complex at 2412 S Escondido Blvd will be calling in for framing inspections this week for building #1.
7. The new 24 Hr. Fitness at the North County Mall is requesting rough framing inspection for their tenant improvement.
8. The Pradera single family tract has submitted plans for their second phase of construction for 8 new single family dwelling production units. The 3 models are preparing for final inspection.

City Manager's **WEEKLY UPDATE** to City Council

9. The new Taco Bell restaurant and office building are now preparing for final inspection.
10. Plans were submitted for 2 single family dwellings on Stoneybrae Pl.
11. A copy of the monthly Building Report is attached.

Code Enforcement:

1. As of January 4th the total number of open code enforcement cases is 364 cases. During the prior week, 24 new cases were opened, and 37 cases were closed, with a backlog of an additional 5 cases not yet opened for assignment and investigation.
2. There were 4 illegal signs confiscated during the weekend. No Public Records Requests (PRR) were processed, for a total of 105 PRRs processed during 2015.
3. Last week the Business License Division issued 2 new licenses and received 18 new applications in addition to 133 renewals.
4. A copy of the 2015 Business License statistics is attached.

CAPITAL IMPROVEMENTS

Storm Drain Inlet Filter Basket Project:

A second Public Service Agreement was approved on November 30, 2015 for an additional 21 inlet filters to be installed within existing storm drain structures. The unit installations began on January 4, 2016 with a completion date set for January 15, 2016. The objective is to retain function and to allow ease of maintenance through the manhole opening.

Private Development

Bear Valley Parkway between Boyle Avenue and San Pasqual Valley Road (County Project):

The project is idle this week due to the major winter storm.

2412 South Escondido Boulevard:

No change from the following update reported last week: On site construction of new homes is continuing this week.

Pradera - Lennar Communities:

Paving of street "D" was cancelled for Wednesday, December 30th. The project is idle this week due to the major winter storm.

City Manager's **WEEKLY UPDATE** to City Council

Future Capital Improvements

East Valley Pkwy/Valley Center Rd Widening project:

Staff continues to work to provide information for use in right-of-way negotiations, and correspond with SDG&E for its final design to underground existing overhead utilities.

Washington Park Pool Re-surfacing:

Bids for this project will be opened on January 7. Staff will be seeking City Council approval to award the construction contract on February 3. This project is funded by a Housing Related Park Grant.

Grape Day Playground Equipment:

Final plans and specifications were received from the project consultant on January 4. Staff is finalizing the bid package to advertise for bid later this month.

PUBLIC SAFETY

Incidents

- On 12/30/2015, officers responded to assist the fire department with a commercial structure fire at 1021 W. Mission Ave. Officers kept Mission Ave closed between Rock Springs Rd. and Metcalf for the numerous fire apparatus that responded to the scene. The fire was quickly contained and extinguished. The road was reopened after being closed for little more than an hour.
- On 1/1/2016, officers responded to a 911 call regarding an 18 year old male in the 500 block of S. Rose St. The caller reported the male was not breathing. The male was pronounced dead by fire personnel. The death was deemed to be suspicious by officers on the scene. The PD's Crime of Violence Unit and Crime Lab responded to the scene. The investigation is ongoing.
- On 1/2/2016, a female housekeeping employee was cleaning a bottom floor room on the north end of the motel. An unknown white male entered the room, pushed the housekeeper on the bed, and held her down. After a few seconds the victim screamed, causing the suspect to get off the victim. The victim grabbed her broom and took a few swings at the suspect. The suspect fled the scene. The victim ran to the office and flagged down an officer who happened to be in the area. Officers searched the area and located the suspect walking in the Lowes parking lot. The suspect was detained and positively identified by the victim in a curbside lineup.

City Manager's WEEKLY UPDATE to City Council

Events

- The Facebook post video showcasing the police department's give-a-way of \$10k has reached almost 275,000 people. As a comparison, the second largest reach the PD had was earlier this year, with about 80,000 people.
- On 1/1/2016, Chief Carter sent an email to all police employees thanking them for all the hard work in 2015. Below are some of the highlights:
 - The PD responded to just over 50,000 police calls for service, handled over 106,000 CAD incidents and took over 15,000 police cases; averaging over 200 calls per day on both Fridays and Saturdays.
 - Officers made just under 1,350 Felony arrests and just under 3,100 Misdemeanor arrests.
 - Officers made over 400 DUI arrests and issued over 7,300 citations.
 - Dispatch answered over 67,000 911-calls with 97% of them answered within 15 seconds and 99% within 40 seconds.
 - The PD hired seven new officers, two dispatchers, two part-time employees and two detentions officers.
- Prior to the Holiday season, PAL held two events. On December 12th the PAL Basketball Championships were held at EVCC. Children from the ages of 7-14 years of age participated this season.



City Manager's WEEKLY UPDATE to City Council



- On December 14th, Lieutenant Owens and Officer Sainz conducted a safety presentation at the Boys and Girls Club, 150 Woodward Ave. Approximately 40 children between the ages of 5-7 attended the event.

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