ORDINANCE NO. 2013-10

AN ORDINANCE OF THE CITY OF ESCONDIDO, CALIFORNIA, ADOPTING A PROPOSED INITIATIVE MEASURE AMENDING THE ESCONDIDO GENERAL PLAN TO PRESERVE THE ESCONDIDO COUNTRY CLUB AND GOLF COURSE AS AN ORDINANCE OF THE CITY PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 9215

PREAMBLE

We the people of the City of Escondido declare our intent to restore property values and land use stability to our City, both in the immediate term and for the long term, and to secure for our community the historic principles of self governance. Sincerely committed to the belief that local government has the closest affinity to the people governed and firm in the conviction that the people's right to directly legislate will better serve and promote the health, safety and welfare of all citizens of this City, we do hereby exercise the express right granted by the Constitution of the State of California.

SECTION 1. FINDINGS AND DECLARATION OF PURPOSE. Using the power vested in the citizens of the City of Escondido by the California Constitution and Government Code Sections 9200 *et seq.*, this initiative measure restores and stabilizes for the future certain of the land principles according to which this City has been historically governed.

A. In 1963 the Escondido golf course and country club were first developed in conjunction with a residential project.

B. By the terms of Escondido Planning Commission Resolution 389 which

approved a Special Use Permit for said project, residential units adjoining the course and clubhouse were originally granted the following guaranty which was required to run with the land:

> All owners of the Escondido Country Club . . . shall operate, maintain and repair (the golf course) primarily for the benefit of the residents of the Golden Circle ... until such time as the operation and maintenance of said recreation facilities and improvements are assumed by some public agency, district, corporation, non-profit corporation or legal entity approved by the City Planning Commission.

C. For nearly fifty years the recreation facilities, including the course and club, have served the greater Northwest Escondido community of more than 4,000 residents as an anchor of neighborhood stability, security and home values.

D. Buyers of residential property within the community have relied upon the esthetic and environmental character conferred upon their neighborhood by the continuing operation of the course and club as a green space.

E. The club property and course have now been purchased by a new owner who has closed the course and threatens to replace its green space with a housing project, based on a claim that Resolution 389 no longer applies.

F. Firm in the conviction that the loss of said green space, and the intensification of greater housing density, will depress property values, increase traffic

congestion, impact schools and generally degrade the currently stable neighborhood; the Northwest Escondido community opposes the conversion of the green space to a construction project.

G. Property owners in the community seek to preserve and enforce the original guarantees offered by Resolution 389, not for the particular benefit of golfers, or members of a country club, but for the benefit of the landowners and citizens of the larger community who, for fifty years, have benefited from a regionally important green space.

H. Now, by the terms of this initiative measure, the greater community of Northwest Escondido seeks to reaffirm, implement and enforce the intent of Resolution No. 389, by assuring that the green space and recreation facilities provided by the Escondido Country Club golf course are preserved and maintained for the betterment of the community.

I. Further, the community proposes to advance the intent of Resolution No. 389 in a manner consistent with present day circumstances. Since the golf course was originally created, the area of benefit within the adjacent community has grown. Rather than pursue ownership of the recreation facilities by just the neighboring residential property owners, it is now timely to secure a base of support from the entire benefitting residential community. It is also time to expand membership opportunities to the public at large. Thus, operation of the property will be enhanced by a menu of membership and user fees to be paid in return for various levels of public use of all the recreation facilities.

J. If this Initiative petition is signed by not less than 15 percent of the voters

of the city according to the last report of registration by the county elections official to the Secretary of State pursuant to Elections Code Section 2187, a Special Election shall be called if the City Council does not adopt this Initiative in the manner required by law. If this Initiative petition is signed by not less than 10 percent of the voters of the city, this Initiative shall be set at the next Regular Municipal Election if the City Council does not adopt this Initiative.

SECTION 2

A. The General Plan of the City of Escondido is hereby amended to designate that property commonly referred to as the Escondido Country Club and golf course (more particularly described in the list of parcels attached hereto as Exhibit "A" -Parcels Numbers and incorporated herein) as Open Space-Park (OS-P), which designation shall permit the improvement, operation and maintenance of a golf course, club house and recreational facilities, along with uses appurtenant thereto.

B. The General Plan Map of the City of Escondido (Figure II-I) shall be redrawn, Figures II-6 and II-32 shall be amended, and Policy 12.1 shall be amended as follows:

The Parks and Open Space General Description of Uses in Figure II-6 (General Plan Land Use Designations) under the Other land Uses, Parks and Open Space category, the Land Use Designation "Parks and Open Space" shall be amended to read as follows: "Accommodates land for public and large private recreational activities and habitat preservation. Permitted public uses include active and passive parks or recreational uses as well as land to protect, maintain, and

enhance the community's natural resources and include detention basins and creek corridors. Permitted private uses include, but are not limited to, golf courses, tennis court and related appurtenant active recreational use facilities." The Parks and Open Space Recommended Urban Form Characteristics shall be amended to strike the words "with public parks". The Open Space Required Standards shall be amended to include two zoning categories: "Zoning: Open Space -Public (OSP), and Open Space -Private (OS)".

Figure II-32 (General Plan Land Use: Zoning Category) shall be amended to replace the existing category of "Public" under the Zoning Category column for "Open Space / Parks", with two zoning categories: "Open Space -Public (OS-P) and Open Space Private (OS)".

Chapter II (Land Use and Community Form), Subsection 12 (Land Use and Community form Goals and Policies) of the General Plan, Goal 12.1 (Open Space Use Policy) shall be amended to read as follows: "12.1 Open Space Land Use Policy. Establish the Open Space/ Park designation to identify city and county properties reserved for active and passive parks, habitat preservation and public safety purposes, and to identify certain private properties reserved for active recreational uses as described in Figure II-6."

C. Upon the effective date of this amendment of the Escondido General Plan the City Council shall, after appropriate public hearings before the Planning Commission and City Council, adopt zoning ordinances that implement this General Plan Amendment. Until the adoption of such ordinances, no permit or entitlement shall be

issued unless it is consistent with this General Plan amendment for covered properties described in Section 2(A), above.

SECTION 3. SEVERABILITY. If any section, sub-section, sentence, clause, phrase, part, or other portion of this measure, or application thereof, is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the remaining portions or provisions of this measure. It is hereby declared by the people voting for this measure that this measure, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts or portions, or the application thereof, are declared invalid or unconstitutional.

SECTION 4. CONFLICTING BALLOT MEASURES. This measure is inconsistent with and intended as an alternative to any other initiative or measure placed on the same ballot that addresses the same subject matter as this measure. In the event that this measure and another initiative or measure addressing the same subject matter as this measure, or any part thereof, is approved by a majority of voters as the same election, and this measure receives a greater number of affirmative votes than any other such initiative or measure, then this measure shall prevail and control in its entirety and said other initiative or measure shall be rendered void and without any legal effect.

SECTION 5. AMENDMENT BY THE PEOPLE. This Initiative shall only be repealed, amended or modified by a vote of the People.

SECTION 6. LIBERAL CONSTRUCTION. The provisions of this Initiative shall be liberally construed to effectuate its purposes.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 14th day of August, 2013 by the following vote to wit:

AYES : Councilmembers: DIAZ, GALLO, MASSON, MORASCO, ABED

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:

SAM ABED, Mayor of the
City of Escondido, California

ATTEST:

DIANE HALVERSON, City Clerk of the
City of Escondido, California

*****

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO : ss.
CITY OF ESCONDIDO)

I, DIANE HALVERSON, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2013-10 was adopted at a regular meeting of the City Council of the City of Escondido held on the 14th day of August, 2013.

DIANE HALVERSON, City Clerk of the
City of Escondido, California

ORDINANCE NO. 2013-10

EXHIBIT "A"

PARCEL NUMBERS

COMMONLY KNOWN AS: 1800 COUNTRY CLUB LANE, ESCONDIDO, CA 92026

APN: 224-210-53-00; 224-211-05-00; 224-211-11-00; 224-211-12-00; 224-211-15-00; 224-23036-00; 224-230-43-00; 224-430-04-00; 224-431-01-00; 224-431-02-00; 224-431-03-00; 224-49005-00; 224-490-06-00; 224-491-01-00; 224-811-28-00
End of Parcel Numbers

Clerk's Office
2015 MAR 16 PM 2:27

FILED
Clerk of the Superior Court
MAR 13 2015
BY Noreen McKinley, Deputy

Superior Court of the State of California
County of San Diego, North County Division

STUCK IN THE ROUGH, LLC; Petitioners/Plaintiffs, v. CITY OF ESCONDIDO; CITY COUNCIL OF THE CITY OF ESCONDIDO; and DOES 1 THROUGH 100, INCLUSIVE. Respondents/Defendants.	CASE NO. 37-2013-00074375-CU-WM-NC WRIT OF MANDATE

TO RESPONDENTS CITY OF ESCONDIDO AND THE CITY COUNCIL OF THE CITY OF ESCONDIDO:

Pursuant to the Order Granting Writ of Mandate in this action determining that City of Escondido Ordinance No. 2013-10, adopted by the City Council on August 14, 2013, is invalid, YOU ARE HEREBY ORDERED to vacate and set aside your actions approving and adopting Ordinance No. 2013-10.

YOU ARE FURTHER HEREBY ORDERED to take no actions in furtherance of Ordinance No. 2013-10 and to cease enforcing Ordinance No. 2013-10.

YOU ARE FURTHER HEREBY ORDERED to file a return to this writ within 30 days of the date it is served on you setting forth what you have done to comply with this writ.

Dated: 3/13, 2015

CLERK OF THE COURT

NOREEN B. MCKINLEY

City Council of the City of Escondido

City Clerk
City of Escondido
201 N. Broadway, Second Floor
Escondido, CA 92025-2798