



Council Meeting Agenda

APRIL 3, 2013
CITY COUNCIL CHAMBERS
4:30 P.M. Regular Session
201 N. Broadway, Escondido, CA 92025

MAYOR	Sam Abed
DEPUTY MAYOR	Olga Diaz
COUNCIL MEMBERS	Ed Gallo John Masson Michael Morasco
CITY MANAGER	Clay Phillips
CITY CLERK	Diane Halverson
CITY ATTORNEY	Jeffrey Epp
DIRECTOR OF COMMUNITY DEVELOPMENT	Barbara Redlitz
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

**April 3, 2013
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

PROCLAMATIONS: Fellowship Center – 50th Anniversary

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.

COUNCIL MEMBERS' REPORTS/BRIEFING

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: None Scheduled**

4. **BID AWARD FOR THE DIGESTER CLEANING 2013 PROJECT -**

Request Council authorize the Mayor and City Clerk to execute an agreement with SYNAGRO – WWT incorporated in the amount of \$699,500 for the Digester Cleaning 2013 Project.

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

RESOLUTION NO. 2013-39

5. **REJECT ALL BIDS FOR THE RESERVOIR REPAINTING 2013 PROJECT -**

Request Council approve rejecting all bids for the Reservoir Repainting 2013 Project; and authorize staff to re-advertise for bids on the project.

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

RESOLUTION NO. 2013-38

6. **BUDGET ADJUSTMENT FOR SUCCESSOR AGENCY - HOUSING BUDGET -**

Request Council approve a budget adjustment that increases the Professional Services/Contracts line item of the Housing Division budget by \$22,800 in order to hire consultants to analyze aspects of Mobilehome Rent Control Long-Form Applications; and provide direction regarding a possible reevaluation of the fee charged in conjunction with long-form rent increase applications.

Staff Recommendation: **Approval (Community Development/Housing: Barbara Redlitz)**

7. **SALE AND LEASE BACK AGREEMENT WITH ESCONDIDO CHAMBER OF COMMERCE FOR PROPERTY LOCATED AT 720 N. BROADWAY -**

Request Council authorize the Real Property Manager and City Clerk to execute a Sale and Lease Back Agreement with the Escondido Chamber of Commerce for property located at 720 N. Broadway; and approve a decrease in the General Fund Reserve in the amount of \$555,000 and an increase to the Engineering Operating Budget in the same amount to cover the purchase price and related fees and costs.

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

- a. RESOLUTION NO. 2013-35
- b. RESOLUTION NO. 2013-46

8. **CHANGE ORDER AGREEMENT WITH J.P. WITHEROW ROOFING CONTRACTOR -**

Request Council authorize the City Manager to approve a change order agreement with J.P. Witherow Roofing Contractor in the amount of \$45,337 to replace the single-ply flat roof areas at the Escondido Public Library and Technology Center.

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

RESOLUTION NO. 2013-40

9. REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM (RTCIP) FEE ADJUSTMENT -

Request Council authorize a 2% increase in the RTCIP Traffic Impact Fee from \$2,165 to \$2,209 beginning July 1, 2013; and authorize the Public Works Director/City Engineer to implement future annual increases approved by the SANDAG Board of Directors.

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

RESOLUTION NO. 2013-42

10. HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) GRANT AWARD AND BUDGET ADJUSTMENT -

Request Council authorize the Public Works Department to accept federal Highway Safety Improvement Program (HSIP) Grant funds in the amount of \$675,000 from Caltrans; authorize the Director of Public Works/City Engineer or his designee to complete all necessary documents required by Caltrans on behalf of the City; and approve necessary budget adjustments.

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

11. AUTHORITY TO SUBMIT CONCEPT PROPOSALS FOR URBAN GREENING FOR SUSTAINABLE COMMUNITIES PROGRAM PROJECT FUNDS -

Request Council authorize the Public Works Director/City Engineer or his designee to submit concept proposals to the California Natural Resources Agency's Urban Greening for Sustainable Community Program to fund two projects: "Mission Pools" Area Drainage Restoration and Grand Avenue Median Tree Improvement Project.

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

12. ORDINANCE AMENDING CHAPTER 16 OF THE MUNICIPAL CODE REGARDING MOBILE FOOD FACILITIES (Case No. AZ 12-0007) -

Request Council amend Chapter 16 of the Municipal Code regarding Mobile Food Facilities to: 1) Allow mobile food trucks throughout the City for special events subject to the issuance of a Special Event Permit by the City Manager's Office; 2) Allow mobile food trucks at Breweries and Wineries in industrial and residential-agricultural zones subject to the issuance of an appropriate use permit by the Director of Community Development and 3) Allow fixed-route mobile food trucks to operate in the City without the need to obtain a special event or other use permit.

Staff Recommendation: **Approval (Community Development/Planning: Barbara Redlitz)**

ORDINANCE NO. 2013-02R (Introduction and First Reading)

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.)

CURRENT BUSINESS

13. CAMPAIGN CONTROL ORDINANCE –

Request Council consider amendments to Chapter 2, Article 7, Sections 2-103 and 2-110 of the Escondido Municipal Code regarding campaign contributions for local elections.

Staff Recommendation: **None (Councilmember Michael Morasco and Deputy Mayor Olga Diaz)**

14. APPOINTMENT TO THE SAN DIEGO COUNTY WATER AUTHORITY BOARD –

Discussion regarding the appointment of the City of Escondido's representative to the San Diego County Water Authority Board to fill the vacancy created by the retirement of Marilyn Dailey.

Staff Recommendation: **None (Mayor Sam Abed)**

PUBLIC HEARING

15. REAFFIRM COMMUNITY DEVELOPMENT PRIORITIES OF THE FISCAL YEAR 2010-2015 CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG); APPROVE ALLOCATION PROCESS FOR FISCAL YEAR 2013-2014 CDBG FUNDED ACTIVITIES; APPROVE AMENDMENT TO FY 2012-2013 ONE-YEAR ACTION PLAN FOR CDBG TO TRANSFER \$80,000 IN ALLOCATED FUNDS FROM THE TULIP STREET IMPROVEMENT PROJECT TO THE OAK HILL - STREET AND MODULAR SITE IMPROVEMENT PROJECT; AND BUDGET ADJUSTMENT -

Request Council approve conducting a public hearing to review and reaffirm the community development priorities adopted in the 2010-2015 Five-Year Consolidation Plan for CDBG and to amend the FY 2012-2013 One-Year Action Plan, in the amount of \$80,000, transferred from the Tulip Street Improvement Project to the Oak Hill – Street and Modular Building Site Improvement Project; 2) Approve an allocation process for FY 2013-2014 CDBG Funds to utilize the maximum 15 percent allowable for public service activities to address the priorities of the Consolidated Plan, and the maximum 20 percent allowable for administration of the CDBG Program and 3) Approve an \$80,000 budget increase for the Oak-Hill – Street and Modular Site Improvement Project and a second change order to purchase order #33832 with Southland Paving Inc. in the amount of \$80,000 to allow for additional street improvements on the Oak Hill – Street and Modular Site Improvement Project.

Staff Recommendation: **Approval (Public Works/Neighborhood Services: Ed Domingue)**

WORKSHOP

16. 2013 AMGEN TOUR OF CALIFORNIA UPDATE -

Request Council receive and file an update on plans for the 2013 AMGEN Tour of California bicycle race on May 12, 2013.

Staff Recommendation: **Receive and file (City Manager's Office: Joyce Masterson)**

FUTURE AGENDA

17. **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)**

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
April 10	Wednesday	3:30 & 4:30 p.m.	Council Meeting	Council Chambers
April 17	Wednesday	3:30 & 4:30 p.m.	Council Meeting	Council Chambers
April 24	Wednesday	3:30 & 4:30 p.m.	Council Meeting	Council Chambers
May 1	Wednesday	3:30 & 4:30 p.m.	Council 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 839-4641. 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.



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 4
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council
FROM: Christopher W. McKinney, Utilities Director
SUBJECT: Bid Award for the Digester Cleaning 2013 Project

RECOMMENDATION:

The Utilities Department requests Council adoption of Resolution No. 2013-39 authorizing the Mayor and City Clerk to execute an agreement with SYNAGRO – WWT Incorporated in the amount of \$699,500 for the Digester Cleaning 2013 Project.

FISCAL ANALYSIS:

Competitive bids were opened by the City Clerk's representative on March 21, 2013, with the following results:

- | | |
|--|----------------|
| 1) Synagro - WWT, Inc., Suisun City, CA | \$699,500.00 |
| 2) Tervita – Daren Weimer, Houston TX | \$743,839.00 |
| 3) JND Thomas Co., Inc., Riverside, CA | \$750,000.00 |
| 4) Downstream Inc., Escondido | \$767,500.00 |
| 5) ProVen Management Inc., San Francisco | \$1,049,500.00 |

This project is budgeted under CIP 807503 with sufficient funds available to complete this contract.

BACKGROUND:

The Digester Cleaning 2013 project is part of a preventive heavy maintenance program that is intended to remove the accumulated foreign debris from within the digesters at the HARRF before damage occurs to the auxiliary systems. The digesters were last cleaned six years ago.

Respectfully submitted,

Christopher W. McKinney
Director of Utilities

RESOLUTION NO. 2013-39

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 SYNAGRO – WWT INCORPORATED, FOR THE DIGESTER CLEANING 2013 PROJECT

WHEREAS, the Escondido City Council authorized an invitation for bids for the Digester Cleaning 2013 Project (the "Project"); and

WHEREAS, the City of Escondido opened sealed bids for the Project on March 21, 2013; and

WHEREAS, the Director of Utilities has determined SYNAGRO – WWT Incorporated ("SYNAGRO") to be the lowest responsive and responsible bidder and recommends awarding the bid in the amount of \$699,500 to SYNAGRO; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to award this contract to SYNAGRO.

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 and finds SYNAGRO to be the lowest responsive and responsible bidder.
3. That the Mayor and City Clerk are authorized to execute, on behalf of the City, a Public Improvement Agreement ("Agreement") with SYNAGRO for the Project. A copy of the Agreement is attached to this Resolution as Exhibit "A" 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 **SYNAGRO-WWT, INC.** (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

DIGESTER CLEANING 2013

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 **Six Hundred Ninety Nine Thousand, Five Hundred Dollars (\$699,500.00)**.
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 **Ninety (90) working 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 that CONTRACTOR shall pay to CITY as fixed and liquidated damages, and not as a penalty, the sum(s) indicated in the LIQUIDATED DAMAGES SCHEDULE below for each calendar day of delay until work is completed and accepted. This amount shall be deducted from any payments due to or to become

due to CONTRACTOR. CONTRACTOR and CONTRACTOR'S surety shall be liable for the amount thereof. Time extensions may be granted by the CITY as provided in the General Conditions.

Liquidated damages schedule:

If the overall project is delayed **one (1) calendar day or more**, the rate shall be \$375/day.

Acknowledged:

Initials of Principal

6. In the event CONTRACTOR for a period of **ten (10) calendar days** after receipt of written demand from CITY to do so, fails to furnish tools, equipment, or labor in the necessary quantity or quality, or to prosecute said work and all parts thereof in a diligent and workmanlike manner, or after commencing to do so within said **ten (10) calendar days**, fails to continue to do so, then the CITY may exclude the CONTRACTOR from the premises, or any portion thereof, and take possession of said premises or any portion thereof, together with all material and equipment thereon, and may complete the work contemplated by this Agreement or any portion of said work, either by furnishing the tools, equipment, labor or material necessary, or by letting the unfinished portion of said work, or the portion taken over by the CITY to another contractor, or demanding the surety hire another contractor, or by any combination of such methods. In any event, the procuring of the completion of said work, or the portion thereof taken over by the CITY, shall be a charge against the CONTRACTOR, and may be deducted from any money due or to become due to CONTRACTOR from the CITY, or the CONTRACTOR shall pay the CITY the amount of said charge, or the portion thereof unsatisfied. The sureties provided for under this Agreement shall become liable for payment should CONTRACTOR fail to pay in full any said cost incurred by the CITY. The permissible charges for any such procurement of the completion of said work should include actual costs and fees incurred to third party individuals and entities (including, but not limited to consultants, attorneys, inspectors, and designers) and actual costs incurred by CITY for the increased dedication of time of CITY employees to the Project.

7. To the fullest extent permitted by law, the CONTRACTOR agrees to and does hereby agree to fully defend, indemnify and hold the CITY, its governing board, officers, agents, Project design team members (architect and consulting engineers), consultants, attorneys, and employees harmless of and from each and every claim, assertion, action, cause of action, arbitration, suit, proceedings, or demand made, and every liability, loss, judgment, award, damage, or expense, of any nature whatsoever (including attorneys' fees, consultant costs), which may be incurred by reason of:
 - (a) Asserted and/or actual liability arises from claims for and/or damages resulting from damages for:
 - (1) Death or bodily injury to persons.
 - (2) Injury to, loss or theft of tangible and/or intangible property/ e.g. economic loss.
 - (3) Any other loss, damage or expense arising under either (1) or (2) above, sustained by the CONTRACTOR upon or in connection with the work called for in this Project, 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. (a) 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:

- (1) General Liability and Property Damage Insurance as defined in the General Conditions in the amount with a combined single limit of not less than **\$3,000,000 per occurrence**.

- (2) Course of Construction / Builder's Risk Insurance See 5.2 of General Conditions.

- (3) 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:

- (A) Automotive and truck where operated in amounts as above

- (B) Material hoist where used in amounts as above

- (4) Workers' Compensation Insurance.

- (b) 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.

(c) 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. Public Contract Code Section 22300 permits the substitution of securities for any monies withheld by a public agency to ensure performance under a contract. At the request and expense of the CONTRACTOR, securities equivalent to the amount withheld in retention by the CITY, then the subcontractor shall receive the identical rate of interest received by the CONTRACTOR on any retention monies withheld shall be deposited with the public agency, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to the CONTRACTOR. The City retains the sole discretion to approve the bank selected by the CONTRACTOR to serve as escrow agent. Upon satisfactory completion of the contract, the securities shall be returned to the CONTRACTOR. Securities eligible for investment shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. The CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

In the alternative, under Section 22300, the CONTRACTOR may request CITY to make payment of earned retentions directly to the escrow agent at the expense of the CONTRACTOR. Also at the CONTRACTOR's expense, the CONTRACTOR may direct investment of the payments in securities, and the CONTRACTOR shall receive interest earned on such investment upon the same conditions as provided for securities deposited by CONTRACTOR. Upon satisfactory completion of the contract, CONTRACTOR shall receive from the escrow agent all securities, interest and payments received by escrow agent from CITY pursuant to the terms of Section 22300. If CONTRACTOR elects to receive interest on moneys withheld in retention by CITY, CONTRACTOR shall, at the request of any subcontractor, make that option available to the subcontractor regarding any monies withheld in retention by the CONTRACTOR from the subcontractor. If the CONTRACTOR elects to receive any interest on any monies withheld in retention by the Owner, then the subcontractor shall receive the identical rate of interest received by the CONTRACTOR on any retention monies withheld from the subcontractor by the CONTRACTOR, less any actual pro rata costs associated with administering and calculating that interest. In the event the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If the CONTRACTOR elects to substitute securities in lieu of retention, then, by mutual consent of the CONTRACTOR and subcontractor, the subcontractor may substitute securities in exchange for the release of monies held in retention by CONTRACTOR. This shall apply only to those subcontractors performing more than five percent (5%) of the CONTRACTOR'S total bid. The CONTRACTOR shall not require any subcontractor to waive any provision of this section.

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.
13. The terms "Project Documents" and/or "Contract Documents" where used, shall refer to those documents include in the definition set forth in the General Conditions made a part hereof.
14. CONTRACTOR shall keep itself informed of and comply with the Immigration Reform and Control Act of 1986. CONTRACTOR 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. CONTRACTOR agrees to comply with such provisions before commencing and continuously throughout the performance of this Agreement.

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 **SYNAGRO-WWT, INC.** ("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,

DIGESTER CLEANING 2013

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.

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 SYNAGRO-WWT, INC. 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,

DIGESTER CLEANING 2013

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:

XXXXXXXXXXXX

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 Field Engineering Inspection Office, 839-4664. 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.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 5
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council
FROM: Christopher W. McKinney, Director of Utilities
SUBJECT: Reject All Bids for the Reservoir Repainting 2013 Project

RECOMMENDATION:

The Utilities Department requests that Council adopt Resolution No. 2013-38 rejecting all bids for the Reservoir Repainting 2013 Project and authorize staff to re-advertise for bids on the project.

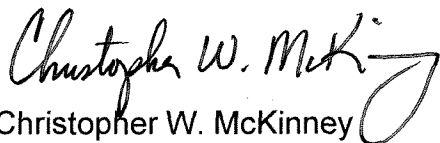
FISCAL ANALYSIS:

Funds for project completion are available in CIP 700329.

BACKGROUND:

This project was previously advertised. Bids were opened publicly by the City Clerk on March 14, 2013 at 2:00 PM. Two bids were received in the mailroom at City Hall prior to the 2:00 PM deadline, but were not in possession of the Clerk's office at the time of bid opening. Thus, all bids that were potentially responsive were not included in the public bid opening. Therefore, the process would likely draw a protest on the grounds that responsive bids were excluded unfairly, or that bids not present at the public opening were included to the detriment of other bids. Language in the bid specifications has been altered to require each bidder to insure that bids are clearly marked and delivered to the Clerk (not simply City Hall) by the advertised deadline. Public Contract Code Section 20166 authorizes a local agency, at its own discretion, to reject all bids and re-advertise a project; therefore, staff recommends that all bids be rejected and that the project be re-advertised for bid.

Respectfully submitted,



Christopher W. McKinney
Director of Utilities

RESOLUTION NO. 2013-38

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE REJECTION OF ALL
BIDS FOR THE RESERVOIR REPAINTING
2013 PROJECT

WHEREAS, the City of Escondido opened the sealed bids for the Reservoir Painting 2013 Project ("Project") on March 14, 2013; and

WHEREAS, Public Contract Code Section 20166 authorizes a local agency, at its own discretion, to reject all bids and re-advertise a project; and

WHEREAS, the Director of Utilities has recommended the rejection of all bids.

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 to reject all bids for the Project and to re-advertise the Project for bids.
3. That the City Council does, by adoption of this Resolution, reject all bids received by the City Clerk on March 14, 2013, for the Project and directs staff to re-advertise for bids.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 6
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council
FROM: Barbara Redlitz, Director of Community Development
SUBJECT: Budget Adjustment for Successor Agency – Housing Budget (281-081)

RECOMMENDATION:

It is requested that the City Council:

- a.) Approve a budget adjustment that increases the Professional Services/Contracts line item of the Housing Division budget by \$22,800 in order to hire consultants to analyze aspects of Mobilehome Rent Control Long-Form Applications; and
- b.) Provide direction regarding a possible reevaluation of the fee charged in conjunction with long-form rent increase applications.

FISCAL ANALYSIS:

Funds will transfer from the General Fund to the Successor Agency – Housing budget in order to allow for the processing of Mobilehome Rent Control Long-Form Applications. Rent control administration is a General Fund responsibility. The current fee deposit for a Long Form application is \$5,800.

PREVIOUS ACTION:

City Council approved the FY 2012-13 Operating Budget on June 13, 2012. Since applications for mobilehome park rent increases have used the short form process for several years, submittal of long form applications was not anticipated and no funds were budgeted for financial analysis of Long Form applications.

BACKGROUND:

The Mobilehome Rent Control Administration office monitors the Mobilehome Rent Control Ordinance (also known as "Proposition K") that was passed by the voters of Escondido in 1988. The Mobilehome Rent Control Administration is a General Fund activity that is currently managed by the Housing Section of the Planning Division. Under the ordinance, if a mobilehome park owner wants to increase the rent charged to an existing resident, the park owner must first obtain approval from the Mobilehome Park Rental Review Board through a public hearing process.

Before the July 9, 2012 Vista Verde application, there had been no long form rent increase applications since 2005 (Mobile ParkWest). This fiscal year, the City has received two long form

applications, for Vista Verde Mobile Estates and Sundance Mobile Home Park. For analysis of long form applications, staff contracts with consultants to provide specialized analysis as necessary, including comparative rents within the City and economic analysis (including return on cash investment, return on book value, or maintenance of net operating income). A budget adjustment for \$22,800 is now necessary to fund expert studies in conjunction with long-form applications already received.

When a park owner completes a long-form rent increase application, the owner must deposit \$5,800 in order to defray the costs associated with processing a long-form application. In 2012, the City collected \$11,600 in fees for two long form applications. Staff requests direction regarding a possible reevaluation of the fee charged in conjunction with long form rent increase applications. According to the Mobilehome Rent Review Board Guidelines:

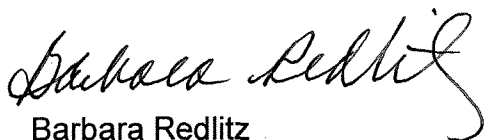
Section 10: General policies governing the Board's deliberations and determination.

- J. The applicant shall be required to deposit the sum of \$5,800 at the time of filing the application with the City. This amount will be used to reimburse the City for costs associated with evaluation of the application and preparation of information regarding the rate of return for the park under criteria established by the Board and to defray the costs of any supplementary work which may be required to insure that the application is complete. This deposit will also be available to pay for analysis of any claims set forth in the application or materials supplied to substantiate claims made in the application to determine their validity and veracity.

Where the deposit is exhausted prior to completion of the review of the rent increase application, no further work on the application shall be conducted until further amounts are deposited, as the Rent Review Board may deem appropriate.

Historical records show that Rent Control Administration has not required any additional funds to cover the costs of expert analysis. Fees were last increase from \$3,800/deposit to \$5,800/deposit in 2005 via Resolution 2005-132. Options regarding fees include re-affirming the current fee schedule; increasing the fee; or collecting additional funds from park owners to achieve cost recovery for analysis. Any fees collected from park owners may be passed to the residents subject to rent control at the Rent Review Board's discretion.

Respectfully submitted,



Barbara Redlitz
Director of Community Development



Karen Youel
Management Analyst

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 7

Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer
Debra Lundy, Real Property Manager

SUBJECT: Sale and Lease Back Agreement with Escondido Chamber of Commerce for Property Located at 720 N. Broadway

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2013-35 and 2013-46 authorizing the Real Property Manager and City Clerk to execute a Sale and Lease Back Agreement with the Escondido Chamber of Commerce ("Chamber") for property located at 720 N. Broadway; and both adopt a decrease in the General Fund Reserve in the amount of \$555,000 and an increase to the Engineering Operating Budget in the same amount to cover the purchase price and related fees and costs.

FISCAL ANALYSIS:

\$555,000 will be transferred from the General Fund Reserves to the Engineering Operating Budget to pay for acquisition costs and associated escrow fees. Monthly payments of \$3,107.43 will be deposited into the general fund.

BACKGROUND:

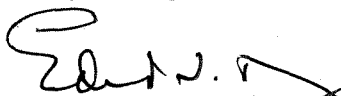
In 2002 the City deeded the subject land to the Chamber for \$4,800, so the Chamber could construct improvements to operate the business offices of the Escondido Chamber of Commerce. Since then, the Chamber has taken loans against the property in order to finance the improvements and pay for other business needs. The Chamber's various loans total \$550,000.

The City now has an opportunity to partner with the Chamber via the Sale and Lease Back Agreement, whereby the City would purchase the property back from the Chamber at a purchase price of \$550,000, sufficient to pay off the Chamber's loans. The Chamber would then lease the property back from the City at a monthly rent of \$3,107.43 for 234 months, totaling \$727,138.62. The repayment amount includes a 3% interest. At the conclusion of the lease term, the property would revert to the Chamber.

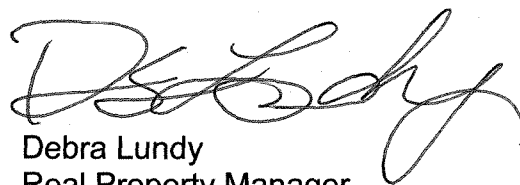
Sale and Lease Back Agreement Chamber of Commerce
April 3, 2013
Page 02

The proposed lease term is 20 years, and the Chamber, as Lessee, would be responsible for all maintenance expenses and any possessory interest taxes that may be imposed by the County. In order to allow the Chamber time to build its reserves, the proposed lease agreement waives the first six months of rent.

Respectfully submitted,



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



Debra Lundy
Real Property Manager

RESOLUTION NO. 2013-35 R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE REAL PROPERTY MANAGER AND CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, A SALE AND LEASE BACK AGREEMENT WITH THE ESCONDIDO CHAMBER OF COMMERCE LOCATED AT 720 N. BROADWAY

WHEREAS, the Escondido Chamber of Commerce ("Chamber") owns that certain real property located at 720 N. Broadway; and

WHEREAS, the Chamber has loan obligations equaling \$550,000 and desires to sell the property to the City for \$550,000 in order to pay its loan debt; and

WHEREAS, the Chamber desires to lease the property from the City for a 20-year term, with monthly payments made to the City, which will repay the full amount of the purchase price plus 3% interest over the course of 234 payments; and

WHEREAS, upon full and complete satisfaction of the lease obligations, the Chamber and City desire the property to revert to the Chamber; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve of the Sale and Lease Back Agreement with the Chamber.

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. The Real Property Manager and City Clerk are authorized to execute, on behalf of the City, a Sale and Lease Back Agreement with the Escondido Chamber of Commerce, which is attached hereto as Exhibit "1" and incorporated by this reference.

A.P.N.: 229-210-43
ADDRESS: 720 N. Broadway
OWNER: Escondido Chamber of Commerce

SALE/LEASE BACK AGREEMENT

THIS SALE AND LEASE BACK AGREEMENT is entered into this _____ day of _____ by and between the CITY OF ESCONDIDO, a municipal corporation (hereinafter called "Buyer"), and the ESCONDIDO CHAMBER OF COMMERCE (hereinafter called "Seller"), for the purchase and lease back, by Buyer, of certain real property as hereinafter set forth.

IT IS HEREBY MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. AGREEMENT TO SELL AND PURCHASE. Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, upon the terms and for the consideration set forth in this Agreement, all that certain real property situated in the City of Escondido, County of San Diego, State of California, and legally described in Exhibit "1" of Exhibit "A" attached hereto and by reference made a part hereof (hereinafter "Property").
2. PURCHASE PRICE.
 - a. The total purchase price, payable in cash through escrow, shall be FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000).
3. CONVEYANCE OF TITLE. Seller agrees to convey by a reversionary Grant Deed (in substantially the form and substance of Exhibit "A") to Buyer fee title to the Property, free and clear of all recorded and unrecorded liens, encumbrances, assessments, easements, leases, covenants, conditions, restrictions, and taxes, EXCEPT:
 - a. Taxes as per Section 4986 of the Revenue and Taxation Code.
 - b. Public and quasi-public utility, alley and street easements and rights-of-way record.
 - c. Reciprocal Parking Agreement, recorded as Document No. 2002-0808125
4. ESCROW. Buyer agrees to open an escrow in accordance with this Agreement at Lawyers Title, hereinafter called "Escrow Agent."

This Agreement constitutes the joint escrow instructions of Buyer and Seller. The Escrow Agent, to whom these instructions are delivered, is hereby empowered to act under this Agreement.

Seller will execute and deposit with Escrow Agent, a deed, to Buyer, similar to Exhibit "A" of this Agreement. As soon as the Escrow Agent has received the Seller's deed, but not earlier than thirty days prior to the scheduled escrow closing date, Buyer agrees to deposit, with the Escrow Agent, the purchase price for the Property. Seller and Buyer both agree to deposit, with Escrow Agent, any additional instruments as are necessary.

Insurance policies for fire or casualty are not to be transferred, and Seller shall cancel his own policies after close of escrow.

All funds received in this escrow shall be deposited with other escrow funds in a general escrow account(s) (may be transferred to any other such trust escrow account or accounts) and all disbursements shall be made by check of said Escrow Agent.

Taxes for the fiscal year in which this escrow closes shall be cleared and paid by Seller in the manner required by Section 4986 of the Revenue and Taxation Code, if unpaid at the close of escrow. ESCROW AGENT IS AUTHORIZED TO:

- a. Pay and charge Seller for any unpaid and/or delinquent taxes and any penalties and interest thereon, and for any delinquent or non-delinquent assessments or bonds against the property;
- b. Pay and charge Seller for any amount necessary to place title in the condition necessary to satisfy paragraph 3 of this Agreement;
- c. Pay and charge Buyer for any usual escrow fees, charges, and costs payable under paragraph 6 of this Agreement;
- d. Disburse funds and deliver deed when conditions of this escrow have been fulfilled by Buyer and Seller.

If this escrow is not in condition (except for deposit of money by Buyer, which shall be made upon demand of Escrow Agent) to close within sixty days from date of these instructions, any party who then shall have fully complied with these instructions, may, in writing, demand the return of his money or Property; but, if none have complied, no demand for return thereof shall be recognized until five days after Escrow Agent shall have mailed copies of such escrow instructions, and if any objections are raised within said five (5) day period, Escrow Agent is authorized to hold all papers or documents until instructed by a court of competent jurisdiction or mutual instructions. If no demands are made, proceed with closing this escrow as soon as possible.

All time limits within which any matter herein specified is to be performed may be extended by mutual agreement of the parties hereto. Any amendment of, or supplement to, any instructions must be in writing.

Responsibility of the Escrow Agent under this Agreement is expressly limited to paragraphs 1-6 inclusive and to its liability under any policy of title insurance issued in regard to this transaction.

5. LEASEBACK. Concurrently with consummation of the close of escrow, Buyer (as landlord) agrees to lease to Seller, the Property, pursuant to the lease agreement attached as Exhibit "B" (the "Lease"). The Lease shall be for a term of twenty (20) years, with a monthly rent of \$3,107.43. Buyer agrees to waive rent for the first six months following Closing. Upon Seller's full and complete satisfaction of the obligations set forth in the lease the Property shall automatically revert to Seller.
6. TITLE INSURANCE POLICY. Escrow Agent, following recording of deed to Buyer, shall provide Buyer with a CLTA Standard Coverage Policy of Title Insurance in the amount of \$550,000 issued by Lawyers Title showing title to Property vested in Buyer subject only to the exceptions set forth in paragraph 3 and the printed exceptions and stipulations in said policy.
7. ESCROW FEES, CHARGES AND COSTS. Buyer shall pay: escrow and recording fees incurred in this transaction; Buyer's title insurance premium charge; and documentary stamp tax, if required. Said escrow and recording charges shall not include: reconveyance fees; trustees' fees; forwarding fees; or prepayment charges for any full or partial reconveyance or full or partial release of any mortgage or deed of trust. Pursuant to California Code of Civil Procedure Section 1265.240, no prepayment penalty is required to be paid where property is required for a public use.
8. PERMISSION TO ENTER ON PREMISES. It is mutually understood and agreed by and between the parties hereto that the right of possession and use of the subject property by the Seller, as tenant, shall continue upon close of escrow under the terms of the Lease.
9. LEASES. Seller shall within 7 days of escrow opening provide both Buyer and Escrow Officer with legible copies of all leases, subleases or rental agreements (collectively "Existing Leases") affecting the Property, and with a tenancy statement ("Estoppel Certificate") executed by Seller and/or each tenant and subtenant of the Property. Seller shall use its best efforts to have each tenant complete and execute an Estoppel Certificate. If any tenant fails or refuses to provide an Estoppel Certificate then Seller shall complete and execute an Estoppel Certificate for that tenancy. Buyer has 17 days from the receipt of said Existing Leases and Estoppel Certificates to satisfy itself with regard to Existing Leases and any other tenancy issues.

The Recipricol Parking Agreement between Seller and Buyer (Document No. 2002-0808125) shall remain in effect and shall run with the land upon automatic reversion.
10. MAINTENANCE. During escrow, Seller will maintain the property in good condition and repair.

11. NOTICES. Any notice, which either party may desire to give to the other party, must be in writing and may be given by personal delivery or by mailing the same by registered or certified mail, return receipt requested, to the party to whom the notice is directed at the address of such party set forth at the end of this Agreement, or such other address as the parties may hereinafter designate by giving notice in the manner provided for herein. Any notice given by mail shall be deemed given forty-eight (48) hours after such notice is deposited in the United States mail, addressed as provided, with postage fully prepaid.
12. WAIVER and RELEASE. Seller hereby waives and releases Buyer from any and all claims for damages, liabilities, losses or injury related to the Property, including, but not limited to, claims arising from Buyer's acquisition of the Property.
13. COST OF SUIT. In the event of any litigation, arbitration, any quasi-judicial, or administrative proceeding between the parties herein to: (1) enforce any provision of this Agreement; (2) enforce any remedy available under default within this Agreement; or (3) seek a declaration of the rights of either party on each party's respective interests in the Property, the prevailing party shall be entitled to recover from the other such attorney's fees and costs as may be reasonably incurred.
14. COUNTERPARTS. This Agreement may be executed in counterparts, each of which so executed shall irrespective of the date of its execution and delivery be deemed an original, and all such counterparts together shall constitute one and the same instrument.
15. BINDING EFFECT. The terms, conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns, and successors of the parties hereto.
15. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties, and neither party relies upon any warranty or representation not contained in this Agreement. This Agreement may not be amended, modified, or supplemented except by a writing executed both Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year set forth below.

Dated: _____

ESCONDIDO CHAMBER OF COMMERCE

MAILING ADDRESS OF SELLER:

720 N. Broadway
Escondido, CA 92025

By: _____ Its: _____

By: _____ Its: _____

Dated: _____

CITY OF ESCONDIDO
a municipal corporation

MAILING ADDRESS OF BUYER:

City of Escondido
201 North Broadway
Escondido, CA 92025

BY:

Debra Lundy, Real Property Manager

Diane Halverson, City Clerk

EXHIBIT "A"

Resolution No. 2013-35
EXHIBIT 1
Page 6 of 22

RECORDING REQUESTED BY THE CITY OF ESCONDIDO

When recorded mail to:
City Clerk
City of Escondido
201 N. Broadway
Escondido, CA 92025

APN: 229-210-43

No recording fee required; this document exempt from fee
pursuant to Section 27383 of the California Government Code

CITY OF ESCONDIDO REVERSIONARY GRANT DEED ESC. Doc No.M-2013-

This deed exempt from tax - Section 11922 of the California Revenue and
Taxation Code

FOR VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY
ACKNOWLEDGED

ESCONDIDO CHAMBER OF COMMERCE (GRANTOR),

HEREBY GRANTS TO

the CITY OF ESCONDIDO, a municipal corporation (GRANTEE)

the real property in the City of Escondido,
County of San Diego, State of California,
described on the attached Exhibit "1"

In the event that Grantor completes its lease obligations to Grantee as specified
in the Sale and Lease Back Agreement, filed with the San Diego County
Recorder as Document No. _____, title shall immediately revert to Grantor.

(SIGNATURES ON NEXT PAGE)

CITY OF ESCONDIDO DOC NO.: M-2013-

TITLE OR TYPE OF DOCUMENT: Reversionary Grant Deed
GRANTOR: Escondido Chamber of Commerce

ESCONDIDO CHAMBER OF COMMERCE, GRANTOR

Dated: _____ x _____
By: _____
Its: _____

Dated: _____ x _____
By: _____
Its: _____

GRANTOR'S ALL-PURPOSE ACKNOWLEDGMENT
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On _____ (date) before me, _____,
a Notary Public, personally appeared

(name(s) of signers)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s), is/are subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

Witness my hand and official seal.

Signature of Notary

CITY OF ESCONDIDO DOC NO.: M-2013-
TITLE OR TYPE OF DOCUMENT: Reversionary Grant Deed
GRANTOR: Escondido Chamber of Commerce

CITY ACCEPTANCE

THIS IS TO CERTIFY that the interest in real property conveyed by the attached deed or grant, dated as shown hereon and from the persons named (Grantor) to the City of Escondido, a municipal corporation, is hereby accepted pursuant to Ordinance Number 2008-12 of the City Council of the City of Escondido, dated November 19, 2008, and the Grantee consents to recordation thereof by said Grantees duly authorized officer.

Real Property Manager

**EXHIBIT 1
LEGAL DESCRIPTION**

Legal Description to be Provided by the Title Company and will be attached to the Deed for recordation.

EXHIBIT B

Resolution No. 2013-35
EXHIBIT 1
Page 10 of 22



City of Escondido

LEASE AGREEMENT

PREMISES:

720 N. Broadway

LESSEE:

Escondido Chamber of Commerce

TERM: Twenty (20) Years from Closing

EXHIBIT B

CITY OF ESCONDIDO
LEASE AGREEMENT INDEX

Clause No.	Title	Page No.
1	Definition of Terms.....	1
2	Administration	2
3	Term	2
4	Termination of Lease	2
5	Options to Renew	3
6	Vacation of Premises.....	3
7	Rent	3
8	Late Payment.....	4
9	Cost of Living Adjustment.....	4
10	Security Deposit.....	4
11	Utilities Payments	4
12	Taxes, Assessments and Fees.....	4
13	Acceptance and Maintenance.....	4
14	Alterations	5
15	Use.....	5
16	Occupancy and Assignment.....	6
17	Conduct	6
18	Pets	6
19	Notices.....	6
20	Right of Inspection.....	6
21	Right to Show Premises	6
22	Insurance	7
23	Indemnification	9
24	Costs and Attorney's Fees.....	9
25	Non-Discrimination.....	9
26	Supersedure	9
27	Hazardous and/or Contaminated Soil and Material	9
28	Choice of Law	10
29	Special Provisions	10
30	Americans with Disabilities Act	10
31	Amendment	10
32	Waiver	10



CITY OF ESCONDIDO
LEASE AGREEMENT

This Agreement is made this _____ day of _____, 2013.

Between: CITY OF ESCONDIDO
a municipal corporation
201 N. Broadway
Escondido, California 92025
("CITY")

And: ESCONDIDO CHAMBER OF COMMERCE
720 N. Broadway
Escondido, CA 92025
("LESSEE")

Witness that whereas:

A. City desires to rent to Lessee and Lessee desires to rent from City certain public property located at 720 N. Broadway, for the purpose of operating the business office of the Escondido Chamber of Commerce and incidental activities related thereto.

NOW THEREFORE, it is mutually agreed by and between City and Lessee as follows:

1. DEFINITION OF TERMS. The following words in this Lease Agreement shall have the significance attached to them in this clause unless otherwise apparent from their context.
 - a. "Closing" means the close of escrow on the Sale and Lease Back transaction between the Escondido Chamber of Commerce, as Seller and Lessee, and the City of Escondido, as Buyer and Lessor.
 - b. "Lease" means this Lease Agreement.
 - c. "Lease Administrator" means the City of Escondido-Real Property Agent, or upon written notice to Lessee, such other person as shall be designated from time to time by City.

EXHIBIT B

- d. "Lessee" means Escondido Chamber of Commerce, and does not include its heirs, assigns, or successors-in-interest.
 - e. "Party" or "Parties". The City and the Lessee may also be individually referred to as a Party and collectively as Parties.
 - f. "Premises" means the real property described as 720 N. Broadway, Escondido, CA 92025.
2. ADMINISTRATION. This Lease shall be administered on behalf of City by the Lease Administrator, whose address is:

City of Escondido
Engineering – Real Property
201 North Broadway
Escondido, CA 92025

and on behalf of Lessee by Escondido Chamber of Commerce, whose address is:

720 N. Broadway
Escondido, CA 92025

3. TERM. The term of this Lease shall be twenty (20) years, commencing upon Closing, where upon ownership of the property will vest in the City of Escondido. Upon Seller's full and complete satisfaction of the obligations set forth in the lease, the Property shall automatically revert to Seller.
4. TERMINATION OF LEASE.

4.1 City shall have the right to terminate this Lease by giving seven (7) days prior written notice to Lessee for any of the following events:

4.2.1 Lessee's failure to comply with the following clauses in this Lease:

- Acceptance and Maintenance, Paragraph 13
- Alterations, Paragraph 14
- Use, Paragraph 15
- Occupancy and Assignment, Paragraph 16
- Conduct, Paragraph 17
- Insurance, Paragraph 22
- Americans with Disabilities Act (ADA), Paragraph 29

- 4.2.2 If the City discovers at any time during the lease term that the Lessee or any other party has used, is using, or will use the Premises in an unlawful manner or for an unlawful purpose, or in any manner that is inconsistent with any provision of this Lease.
- 4.3 In the event of any termination pursuant to this Section 4, the Premises shall not revert to Lessee and the Lessee will not have fulfilled its lease obligations as required by this Lease, the Sale and Lease Back Agreement, and the Reversionary Grant Deed.
5. OPTIONS TO RENEW. [This paragraph is intentionally left blank]
6. VACATION OF PREMISES.
- 6.1 Upon termination of this Lease for cause, Lessee shall peaceably vacate and deliver the Premises to City in the same condition as Lessee found them upon its acceptance of the Premises hereunder, excepting ordinary wear and tear and conditions caused by acts of God.
- 6.2 Upon such termination, Lessee shall immediately:
- 6.2.1 Arrange and pay for the disconnection of all utilities and services ordered by Lessee;
- 6.2.2 Provide a written statement to the Lease Administrator of Lessee's new address for purpose of refunding monies, if any, due Lessee under this Lease; and
- 6.2.3 Deliver any keys for the Premises to the Administrator or send said keys by certified mail to the address stated in Paragraph 2 above.
7. RENT. In consideration of the possession and use of the Premises, Lessee shall deliver and pay rent to City during the term of this Lease in the amount of \$3,107.43 per month, on or prior to the 5th day of each month. Said rental payments shall be deferred until the seventh month following Closing. In the event of early lease termination for any reason, Lessee shall pay in full the balance of the rental obligations, which shall be calculated at 3% of \$550,000 ("Purchase Price") amortized over the period of the adjusted lease term (lease commencement to early termination date, minus payments received) or the City may elect to cancel the revision of the Premises to Leasee under the Reversionary Grant Deed

EXHIBIT B

8. LATE PAYMENT. Rent payments received after the 15th day of any month will be charged an additional 10% late payment fee.
9. COST OF LIVING ADJUSTMENT. [This paragraph is intentionally left blank]
10. SECURITY DEPOSIT. No security deposit shall be required under this Agreement.
11. UTILITIES PAYMENTS. Lessee agrees to provide and pay for all utilities and services necessary for the occupancy and use of the Premises, including, but not limited to: gas, water, electricity, trash, sewage charges or septic service, and telephone.
12. TAXES, ASSESSMENTS, AND FEES.
 - 12.1 The terms of this Lease may result in the creation of a possessory interest. If such a possessory interest is vested in Lessee, Lessee may be subjected to the payment of personal property taxes levied on such interest. Lessee shall be responsible for the payment of, and shall pay before delinquent, all taxes, assessments, and fees assessed or levied upon Lessee, on said Premises or any interest therein, on any buildings, structures, machines, appliances, or other improvements of any nature whatsoever, or on any interest therein.
 - 12.2 Lessee further agrees not to allow such taxes, assessments, or fees to become a lien against said premises or any improvement thereon. Nothing herein contained shall be deemed to prevent or prohibit Lessee from contesting the validity of amount of any such tax, assessment, or fee in any manner authorized by law.
13. ACCEPTANCE AND MAINTENANCE.
 - 13.1 Lessee hereby acknowledges that Lessee has inspected the Premises, that Lessee accepts said Premises "as is" and "where is," that the Premises are in a good and sanitary order, condition, and repair. Lessee hereby accepts the Premises as such.
 - 13.2 Lessee agrees to take good care of the Premises and all improvements, alterations, fixtures, and appurtenances thereon. Lessee agrees to make all repairs in and about the Premises, including painting, which may be necessary to preserve them in good order and condition. Said repairs, if any, shall be made in a good and professional manner, and at least equal to the condition and quality of the repaired items at the inception of this Lease. Lessee shall promptly pay the expenses of

EXHIBIT B

such repairs. Lessee agrees to be solely responsible for all costs of maintenance and repair.

13.3 In the event Lessee fails to properly maintain the premises as required by City, then City may notify Lessee in writing of said failure. In the event Lessee fails to perform said maintenance within thirty (30) days after such notice by City, City may perform such maintenance, and the cost thereof including, but not limited to, the cost of labor, material, and equipment, shall be paid by Lessee to City within ten (10) days from receipt by Lessee of a cost statement from City.

13.4 Noncompliance by Lessee with any provision of this clause shall allow the City to immediately terminate this Lease, pursuant to Paragraph 4.2 above.

14. ALTERATIONS.

14.1 Lessee shall not paint, alter, cut, add to, or otherwise change the appearance, structure, or condition of the Premises without the prior written consent of the Lease Administrator and only after obtaining applicable permits.

14.2 Any improvements made with the consent of the Lease Administrator shall become a fixture to the realty and shall remain on and be surrendered with the Premises upon termination of this Lease.

14.3 Noncompliance by Lessee with any provision of this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.

15. USE. Lessee agrees to use the Premises as follows:

15.1 Operating the business office of the Escondido Chamber of Commerce and all incidental activities and purposes related thereto, in accordance with the provisions and requirements contained in any permits required by the City of Escondido Planning Department.

15.2 Lessee shall not use, nor permit the use of, the Premises other than as described in Paragraph 15.1 above. In any case where Lessee is, or should reasonably be, in doubt as to the propriety of any particular use, Lessee may request, and will not be in breach or default if Lessee abides by, the written determination of the Lease Administrator that such use is or is not permitted.

EXHIBIT B

- 15.3 Noncompliance by Lessee with any provision of this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.
16. OCCUPANCY AND ASSIGNMENT. The Premises shall only be occupied by Lessee except with prior written consent of the Lease Administrator. Lessee may not assign or sublease any interest in this Lease to any other party, at any time, including a transferee of a controlling interest in Lessee without written consent from the Lease Administrator. Lessee's noncompliance with this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.
17. CONDUCT.
- 17.1 Lessee and guests of Lessee shall at all times conduct themselves in a quiet and dignified manner so as to cause no annoyance or inconvenience to neighbors of Lessee.
- 17.2 Lessee shall not violate, or permit the violation of, any City or County ordinance, or state or federal law, in or about the Premises.
- 17.3 Noncompliance by Lessee with any provision of this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.
18. PETS. No pets or livestock of any kind may be kept on the Premises without the prior written consent of the Lease Administrator.
19. NOTICES. Any notice required or permitted to be given by this Lease must either be personally served on the other party or served by certified mail, return receipt requested, to the addressee. Notices served by mail shall be sent to the address listed above in Paragraph 2. A change of either party's address must also be immediately served in the manner described above.
20. RIGHT OF INSPECTION. City reserves the right for its agents or employees to enter upon and inspect the Premises at any reasonable time to ascertain if Lessee is complying with the provisions of this Lease.
21. RIGHT TO SHOW PREMISES. In the event of termination as set forth in Section 4 of this Lease, the City reserves the right to conduct an "open house" of the Premises in order to facilitate re-renting or selling the Premises. Said "open house" shall not exceed four

EXHIBIT B

Resolution No. 2013-35
EXHIBIT 1
Page 18 of 22

hours total duration (maximum of two separate days), and when possible, be scheduled from 3 p.m. to 5 p.m., Monday through Friday.

22. INSURANCE.

22.1 Lessee must have insurance in the following amounts at all times during this Agreement:

22.1.1 General liability insurance with at least \$1 Million combined single-limit coverage per occurrence for bodily injury and property damage; and

22.1.2 Automobile liability insurance of \$1 Million combined single-limit per accident for bodily injury and property damage for any and all vehicles that are owned by the Lessee (if applicable); and

22.1.3 Workers' compensation and employer's liability insurance as required by the California Labor Code, as amended, or certificate of sole proprietorship

22.1.4 Commercial property insurance in an amount commensurate with the value of the improvements on the Premises.

22.2 Each insurance policy required above must be acceptable to the City Attorney:

22.2.1 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 policy.

22.2.2 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.

22.2.3 All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.

22.3 Lessee agrees to deposit with City, on or before the effective date of this Lease, one certificate of insurance for each of the policy or policies necessary to satisfy the

EXHIBIT B

insurance provisions of this Lease and to keep such insurance in effect during the entire term of this Lease. This certificate must be reviewed by, and acceptable to, the City Attorney, prior to commencement of the Lease Term. Lessee will also deposit with the City within 60 days of the Effective Date of this Lease, an additional insured endorsement naming City specifically and separately as an "additional insured", with the exception of the worker's compensation policy. The appropriate endorsements described in Paragraph 22.2 above shall follow within sixty (60) days. Noncompliance by Lessee with any provision of this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.

- 22.4 City shall retain the right at any time to review the coverage, form and amount of the insurance required hereby. If, in the opinion of the Lease Administrator, the insurance provisions in this Lease do not provide adequate protection for City and for members of the public using the Premises, City may require Lessee to obtain insurance sufficient in coverage, form and amount to provide adequate protection from and against the kind and extent of risks which exist or are foreseeable at the time a change in insurance is required. City's requirements shall be reasonable, but shall be designed to assure adequate protection of the City's interests. The Lease Administrator shall notify Lessee in writing of changes in the insurance requirements and, if Lessee does not deposit with City within sixty (60) days of receipt of such notice a new Certificate of Insurance for each policy or policies of insurance incorporating such changes, this Lease shall be deemed in default without further notice to Lessee and may be forthwith terminated by the Lease Administrator, pursuant to Paragraph 4.2 above.
- 22.5 The procuring of such required policy or policies of insurance shall not be construed to limit Lessee's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policy or policies of insurance, Lessee shall be obligated for the full and total amount of any damage, injury or loss attributable to any act or omission of it or its agents, customers or guests in connection with this Lease or with use or occupancy of the Premises.
- 22.6 Noncompliance by Lessee with any provision of this Paragraph 22 shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.

EXHIBIT B

23. INDEMNIFICATION. Lessee shall defend, indemnify, and hold harmless City, its officers, agents, and employees from and against any and all claims, demands, and liabilities for loss of any kind or nature which City, its officers, agents, or employees may sustain or incur or which may be imposed upon them or any of them for injury to or death of persons or damage to property as a result of, arising out of, or in any manner connected with this Agreement or with the occupancy and use of the Premises by Lessee, its invitees, visitors, or any other persons whatsoever. Lessee further agrees to pay any and all costs and expenses, including, but not limited to, court costs and reasonable attorney's fees incurred by City on account of any such claims, demands, or liabilities. However, the provisions of this Agreement shall not be construed to indemnify City for claims or acts arising from City's sole negligence.

24. COSTS AND ATTORNEY'S FEES. In the event legal action is brought to enforce the terms of or to declare a termination of this Lease for reason of breach thereof, the unsuccessful party shall pay all of the successful party's costs of such action, together with reasonable attorney's fees, in an amount to be fixed by the court.

25. NONDISCRIMINATION. Lessee herein covenants that this Lease is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of physical or mental disabilities, race, color, creed, religion, sex, marital status, national origin or ancestry in the use, occupancy, tenure or enjoyment of the leased premises. Lessee shall not establish or permit any such practice of discrimination or segregation with reference to the selection, location, number, or use of occupancy by customers, tenants or vendees in the leased premises.

26. SUPERSEDURE. This Lease, upon becoming effective, shall supersede any leases or rental agreements heretofore made or issued for the Premises between the City and Lessee.

27. HAZARDOUS AND/OR CONTAMINATED SOIL AND MATERIAL. Lessee will not place or permit to be placed materials and/or contaminated soils on the premises which under federal, state, or local law, statute, ordinance, or regulations require special handling in collection, storage, treatment, and/or disposal. Lessee also hereby covenants and agrees that, if at any time it is determined there are materials and/or contaminated soils located on the premises which under any environmental requirement require special handling in collection, storage, treatment, or disposal, Lessee shall notify City. Within thirty (30) days after written notice to City or from City, Lessee shall commence to take and thereafter

EXHIBIT B

Resolution No. 2013-35
EXHIBIT 1
Page 21 of 22

diligently complete, at Lessee's sole expense, such actions as may be necessary to comply with environmental requirements.

28. 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 North County Division of the San Diego County Superior Court or federal courts located in San Diego County, California.
29. SPECIAL PROVISIONS. Lessee hereby acknowledges that Lessee waives all rights to any form of relocation assistance provided for by local, state, or federal law to which Lessee may be entitled by reason of this Lease.
30. AMERICANS WITH DISABILITIES ACT (ADA). It is the duty of the Lessee while operating under this Lease to comply with all local, state, and federal laws, including, but not limited to, the Americans with Disabilities Act and to indemnify City from any violation of any such law. Failure to comply with a provision of local, state, or federal law is grounds for the Lease Administrator's immediate termination of this Lease.
31. AMENDMENT. This Agreement may not be amended, modified, or supplemented except by a writing executed both Parties.
32. WAIVER. No waiver by a Party of any provision of this Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision. The exercise by a Party of any right or remedy provided in this Agreement or provided by law shall not prevent the exercise by that Party of any other remedy provided in this Agreement or under the law.

EXHIBIT B

Resolution No. 2013-35
EXHIBIT 1
Page 22 of 22

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: _____

By: _____
Debra Lundy, Real Property Manager

Date: _____

By: _____
Diane Halverson, City Clerk

ESCONDIDO CHAMBER OF COMMERCE

Date: _____

By: _____ Its: _____

Date: _____

By: _____ Its: _____

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY
Jeffrey R. Epp, City Attorney

By: _____

RESOLUTION NO. 2013-46

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
MODIFYING THE CITY OF ESCONDIDO
FUND BALANCE POLICY GENERAL FUND
RESERVE FOR THE PURPOSE OF
ACQUIRING 720 N. BROADWAY

WHEREAS, the Governmental Accounting Standards Board ("GASB") has issued its Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions with the intent of improving financial reporting by providing fund balance categories that will be more easily understood; and

WHEREAS, the City Council of the City of Escondido has adopted Resolution No. 2012-151, the Fund Balance Policy; and

WHEREAS, the Fund Balance Policy provides that the City Council may commit funds for specific purposes by taking formal action and these committed amounts cannot be used for any other purpose unless the City Council removes or changes the specific use through the same formal action to establish the commitment; and

WHEREAS, the City Council has determined that the General Fund Reserve balance be established at \$21,700,975; and

WHEREAS, the Escondido Chamber of Commerce and the City desire to enter into a Sale and Lease Back Agreement for the real property located at 720 N. Broadway; and

WHEREAS, the City Council desires at this time and deems it to be in the best public interest to purchase the property for \$550,000 and lease it back to the Chamber

of Commerce for twenty years with a 3% interest rate; and

WHEREAS, title insurance and escrow costs are estimated to be approximately \$5,000.

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 establishes and approves the new balance of the General Fund at \$21,145,975 as of the date of this Resolution.
3. That \$555,000 will be added to the Engineering Operating Budget to fund the acquisition of the property and related title and escrow fees.



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 8
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council
FROM: Edward N. Domingue, Public Works Director/City Engineer
Danny W. Sadek, Facilities Project Coordinator
SUBJECT: Change Order Agreement with J. P. Witherow Roofing Contractor

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2013-40 authorizing the City Manager to approve a change order agreement with J. P. Witherow Roofing Contractor in the amount of \$45,337 to replace the single-ply flat roof areas at the Escondido Public Library and Technology Center located at 239 S. Kalmia Street.

FISCAL ANALYSIS:

Funds are available in the Library Roof Replacement Capital Improvement Program and Budget.

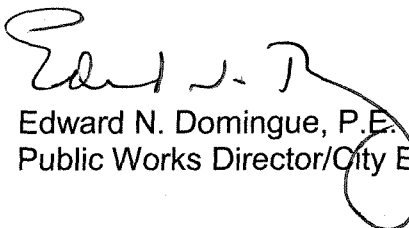
PREVIOUS ACTION:

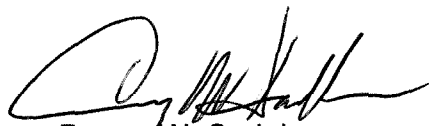
On December 19, 2012, City Council approved the roof replacement contract to replace the 35-year-old membrane under the existing tile roof.

BACKGROUND:

Staff prepared and advertised for bidding the Library Roof Repair Project to replace the 35-year-old membrane under the tile roof system, with the anticipation that only minor repairs were needed for the 20-year-old flat single-ply roofs, and that these repairs could be accomplished with the approved contingency. As work progressed, the Contractor informed staff that the flat single-ply roofs are in much worse shape than anticipated. The existing single-ply roofs are out of warranty, and repairs would cost \$20,211, with no additional warranty. This change order agreement for \$45,337 would repair the failing roof and provide a 15-year warranted roof. This change order is above Department's approval limit for this project.

Respectfully submitted,


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


Danny W. Sadek
Facilities Project Coordinator

RESOLUTION NO. 2013-40

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE PUBLIC WORKS
DIRECTOR/CITY ENGINEER TO EXECUTE,
ON BEHALF OF THE CITY, A CHANGE
ORDER TO REPLACE THE SINGLE-PLY
FLAT ROOF AREAS AT THE ESCONDIDO
PUBLIC LIBRARY AND TECHNOLOGY
CENTER

WHEREAS, the City awarded the contract for the Library Roof Repair Project for the tile roof membrane replacement at the Escondido Public Library and Technology Center to J.P. Witherow Roofing Contractor on December 19, 2012; and

WHEREAS, upon completion of the contract, City staff had J.P. Witherow Roofing Contractor inspect the flat single-ply roof areas that were experiencing leaks in order to patch them; and

WHEREAS, upon inspection, the flat single-ply roofs were beyond repair and warranty and need to be replaced; and

WHEREAS, the Public Works Director/City Engineer recommends this change order with J.P. Witherow Roofing Contractor to replace the membrane on the flat single-ply roofs; and

WHEREAS, the City Council desires at this time and deems it to be in the best public interest to approve said change order.

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 Public Works Director/City Engineer to approve the change order with J.P. Witherow Roofing Contractor.
3. That the Public Works Director/City Engineer is authorized, on behalf of the City, to execute a change order with J.P. Witherow Roofing Contractor. A copy of the change order is attached as Exhibit "A" to this resolution and is incorporated by this reference.



City of Escondido
 Building Maintenance
 201 N. Broadway
 Escondido, CA 92025
 760-802-0396
 Fax: 760-839-4597

CONTRACT CHANGE ORDER

DATE: 4/3/13 CONTRACTOR: J. P. Witherow
 ACCOUNT #: 5131-651-450-91024 10176 Riverford Road
 CHANGE ORDER #: **One (1)** Lakeside, CA 92040
 PROJECT: **Escondido Library Tile Roof Project** 619-297-4701

DESCRIPTION OF CHANGE:

Provide funding to compensate Contractor for additional costs incurred to install dens deck over existing 20-year-old single ply roof on the flat roof areas and install a new fully adhered 45 mil single ply TPO membrane roof. Lump Sum is \$45,337.00 which includes all markups for overhead and profit and no additional compensation will be made therefore.

REASON FOR CHANGE:

The long term deterioration of the single-ply roof areas is worse than originally anticipated. After closer inspection of the single-ply roof areas, it was determined that minor repairs would not be cost effective to alleviate the problem. Instead, the flat single-ply roof areas need to be replaced.

This Change Will: not change, **increase**, decrease, the contract amount.

Original Contract: \$124,348.00 Current Contract Amount: \$124,348.00

Change Amount: \$45,337.00 Based On: **Agreed Lump Sum \$45,337.00**

Time and Material

Unit Prices Agreed Upon

Time & Materials

Time Extension: 20 days **AMENDED CONTRACT \$169,685.00**

Approved By:

Approved By:

CONTRACTOR

CITY OF ESCONDIDO

Signature _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer
Julie Procopio, Assistant Director of Public Works

SUBJECT: Regional Transportation Congestion Improvement Program (RTCIP) Fee Adjustment

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2013-42, authorizing a 2% increase in the RTCIP Traffic Impact Fee from \$2,165 to \$2,209 beginning July 1, 2013, and authorizing the Public Works Director/City Engineer to implement future annual increases approved by the SANDAG Board of Directors.

FISCAL ANALYSIS:

Since initial implementation on July 1, 2008, the City has collected \$153,302 in RTCIP revenue. All RTCIP revenue has been budgeted for the Citracado Parkway Extension Project. The City's share of TransNet funding for FY 2013/2014 is estimated to be \$3,254,000.

PREVIOUS ACTION:

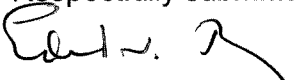
On April 18, 2012, Resolution 2012-42 was approved by City Council increasing the RTCIP Fee by 2%; from \$2,123 to \$2,165.


BACKGROUND:

The TransNet Extension Ordinance, approved by voters in November 2004, requires the City to collect the RTCIP Fee, an exaction for each new housing unit constructed. The TransNet Ordinance further requires SANDAG to increase the RTCIP fee amount by a minimum of 2% on July 1st of each year. The purpose of this annual adjustment is to ensure the RTCIP retains its purchasing power to improve the Regional Arterial System roads.

On February 22, 2013, the SANDAG Board of Directors approved a 2% adjustment to the RTCIP Fee, raising the minimum fee from \$2,165 to \$2,209 beginning July 1, 2013. Staff requests authorization to administratively approve future increases to the RTCIP that are approved by the SANDAG Board of Directors.

Respectfully submitted,


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


Julie Procopio, P.E.
Assistant Director of Public Works

RESOLUTION NO. 2013-42

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING AN ADJUSTMENT OF THE
REGIONAL TRANSPORTATION CONGESTION
IMPROVEMENT PROGRAM FEE FOR FISCAL
YEAR 2013/2014

WHEREAS, in accordance with the Transnet Extension Ordinance, the City of Escondido City Council adopted Resolution 2008-10 to establish a traffic impact fee schedule and approve the City of Escondido's participation in the Regional Transportation Congestion Improvement Program ("RTCIP"); and

WHEREAS, City Council adopted the original RTCIP fee of \$2,000 per new residential unit effective July 1, 2008; and

WHEREAS, the Transnet Extension Ordinance states the fee amount per residential unit shall be adjusted annually on July 1 of each year beginning July 1, 2009, based on the Engineering Construction Cost Index as published by the Engineering News Record or similar cost of construction index; and

WHEREAS, any increase shall not be less than 2 percent per year; and

WHEREAS, the Fiscal Year ("FY") 2012/2013 RTCIP fee was increased 2 percent and set at \$2,165 per residential dwelling unit per Resolution 2012-42; and

WHEREAS, in accordance with the Transnet Extension Ordinance, the RTCIP fee for FY 2013/2014, must increase a minimum of 2 percent for a new RTCIP fee of \$2,209 per residential dwelling unit.

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 adopts a \$2,209 RTCIP fee per each new residential dwelling unit effective July 1, 2013.
3. The \$2,209 RTCIP fee per each new residential dwelling unit is to continue being placed into a separate interest bearing RTCIP account.
4. Future annual increases approved by the SANDAG Board of Directors may be administratively approved by the Public Works Director/City Engineer.

CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 10
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer
Karen Youel, Management Analyst

SUBJECT: Highway Safety Improvement Program (HSIP) Grant Award

RECOMMENDATION:

It is requested that Council authorize the Public Works Department to accept federal Highway Safety Improvement Program (HSIP) Grant funds in the amount of \$675,000 from Caltrans, authorizing the Director of Public Works/City Engineer or his designee to complete all necessary documents required by Caltrans on behalf of the City and approve necessary budget adjustments.

FISCAL ANALYSIS:

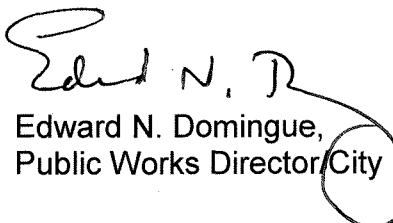
Total budget for the Valley Parkway Road Widening Project from Beven Drive and the northern City limits will be approximately \$6,000,000. This budget includes \$1,069,400 in safety improvements. The City has been awarded a \$675,000 HSIP grant for the safety improvements. Maximum federal reimbursement is 90%; Transnet funds will be used as match for this project.

BACKGROUND:

On June 27, 2012, Council authorized an application to Caltrans for a federal HSIP grant to support the East Valley Parkway Road Widening Project from Beven Drive to Northern City Limits. HSIP funds are allocated to projects which will reduce highway fatalities and serious injuries. Pending funding availability, the project is preliminarily scheduled to begin construction in 2015.

The Department of Public Works has received notification of an HSIP award amounting to \$675,000 from Caltrans for safety improvements, which are sidewalks, lighting and signal upgrades at Lake Wohlford Road. The construction phase of the project must be complete by August 30, 2017.

Respectfully submitted,


Edward N. Domingue,
Public Works Director/City Engineer


Karen Youel
Management Analyst

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 11
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer
Karen Youel, Management Analyst

SUBJECT: Authority to Submit Concept Proposals for Urban Greening for Sustainable Communities Program Project Funds

RECOMMENDATION:

It is requested that Council authorize the Public Works Director/City Engineer or his designee to submit concept proposals to the California Natural Resources Agency's Urban Greening for Sustainable Community Program to fund two projects: "Mission Pools" Area Drainage Restoration and Grand Avenue Median Tree Improvement Project.

FISCAL ANALYSIS:

This action will have no impact on the General Fund budget. The California Natural Resources Agency has no match requirement. Staff will return for authority to complete a full grant proposal, if invited to do so, by the California Natural Resources Agency.

PREVIOUS ACTION:

On October 3, 2012, Council authorized the acceptance of a Vector Habitat Remediation Program Grant in order to conduct a study of three segments of an unnamed tributary of Escondido Creek between West 3rd Avenue to the Escondido Creek ("Mission Pools") in order to design a future project to remediate the site and improve water circulation.

BACKGROUND:

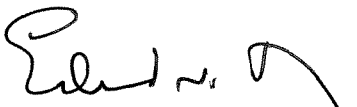
California voters passed the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) on November 7, 2006. Proposition 84 added Division 43, Chapter 9, Section 75065(a) to the Public Resources Code, authorizing the Legislature to appropriate \$70 million for urban greening projects that reduce energy consumption, conserve water, improve air and water quality, and provide other community benefits. The purpose of the chapter includes reducing urban communities' contribution to global warming and increasing their adaptability to climate change while improving the quality of life in those communities. Because of the built-out nature of California's urban areas, the Urban Greening for Sustainable Communities Program provides funds to preserve, enhance, increase, or establish community green areas such as urban forests, open spaces, wetlands, and community spaces. The goal is for these greening projects to incrementally create more viable and sustainable communities throughout the State.

The Urban Greening grant application is a two-step process. First, the City will submit a Concept Proposal and required supporting documents, which will be reviewed to assess eligibility and readiness, to determine whether an applicant will be invited to submit a full application. Applicants will be notified whether or not they are invited to submit a full application in summer 2013.

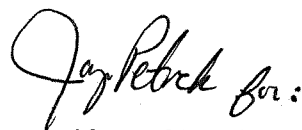
Staff proposes submitting two concept proposals this cycle.

- Using grant funds from the County of San Diego, the City is currently engaged in a study project of Mission Pools and degraded segments of an unnamed tributary of the Escondido Creek that has invasive plants, which choke the flow of water. Grading variances and sediment deposits have created drainage problems to the point that areas remain chronically wet and stagnant. The study project includes funds for CEQA studies and permits, but not for any construction. An Urban Greening concept proposal will focus on potential engineering solutions, including dredging and construction of additional culverts, and planting of new vegetation to reduce future congestion and improve water quality. This project can provide natural treatment for urban runoff and provide the possibility of enhancing the creek for recreational use. Additional work on the study project will provide more concrete solutions when the City is invited to complete a full application.
- A second concept proposal would replace the eucalyptus trees in the Grand Ave medians between 2nd Avenue and Valley Boulevard. Trees are heavily root bound and damaging the infrastructure. Many of these trees are unhealthy and dying. The project will consist of removal of the trees and demolition of the median curbs and AstroTurf near Valley Boulevard. Soils and root debris will be removed to allow for retention of irrigation and storm water and for amended soils to be installed. Medians will be re-graded to allow rainwater and irrigation to infiltrate into the soil, reducing the amount of run-off and improving groundwater recharge. The City will construct new median curbs and replace the existing irrigation system with a water-wise drip system with a smart controller. Two or three species of new trees will be planted in order to create a complete tree canopy with taller shade trees. New trees will allow for the installation of more attractive, non-invasive ground landscaping. This project will have multiple environmental benefits including: a decrease in air and water pollution, a reduction in the consumption of natural resources and energy, an increase in the reliability of local water supplies, increased adaptability to climate change, and public health and community revitalization.

Respectfully submitted,



Edward N. Domingue
Public Works Director/City Engineer



Karen Youel
Management Analyst

Karen Youel
Management Analyst

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 12
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Barbara Redlitz, Director of Community Development

SUBJECT: Ordinance Amending Chapter 16 of the Municipal Code Regarding Mobile Food Facilities (Case No. AZ 12-0007)

RECOMMENDATION:

It is requested that Council introduce and subsequently adopt Ordinance No. 2013-02(R) amending Chapter 16 of the Municipal Code regarding Mobile Food Facilities to:

- Allow mobile food trucks throughout the City for special events subject to the issuance of a Special Event Permit by the City Manager's Office.
- Allow mobile food trucks at Breweries and Wineries in industrial and residential-agricultural zones subject to the issuance of an appropriate use permit by the Director of Community Development.
- Allow fixed-route mobile food trucks to operate in the City without the need to obtain a special event or other use permit.

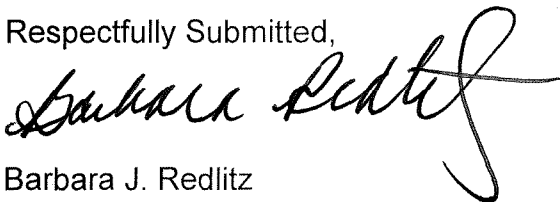
PREVIOUS ACTION:

The City Council considered the proposed Mobile Food Facilities regulations at the March 20, 2013 hearing, but did not take a final action on the item. The Council supported the proposed mobile food truck provisions but directed staff to return with revised language that would allow the fixed-route trucks to operate throughout the City without the need to obtain a separate use permit.

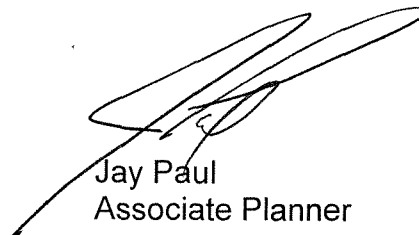
DISCUSSION:

The revised ordinance includes additional language exempting a mobile food truck that provides service to an active construction site or licensed business and its employees on a fixed route from the use permit requirements, subject to a time limit of ten minutes on any single site.

Respectfully Submitted,



Barbara J. Redlitz
Director of Community Development



Jay Paul
Associate Planner

ORDINANCE NO. 2013-02(R)

AN ORDINANCE OF THE CITY OF ESCONDIDO,
CALIFORNIA, AMENDING ESCONDIDO
MUNICIPAL CODE, CHAPTER 16, LICENSES
AND BUSINESS REGULATIONS, REGARDING
MOBILE FOOD FACILITIES

CASE NO. PHG 12-0007

WHEREAS, the California Retail Food Code (Cal. Health and Safety Code Sections 113700 et seq.) establishes local regulatory authority over mobile food facilities and allows mobile food facilities to operate in accordance with local codes, ordinances and regulations, and

WHEREAS, Section 22455 of the California Vehicle Code authorizes the City to regulate the time, place, and manner of vending from mobile food facilities to protect public safety in the public right-of-way; and

WHEREAS, Section 114315 of the Retail Food Code requires mobile food facilities stopped to conduct business for more than a one-hour period to ensure that restrooms are available within 200 feet travel distance for employee use. Section 113709 of the Retail Food Code authorizes the City to regulate the provision of restrooms for food facility customers, and the public health and safety require food facilities to make restrooms available for employees and customers; and

WHEREAS, Escondido Municipal Code Section 28-161 states that no person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or foodstuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch wagon or eating car or vehicle, on any

portion of any street within this city, except that such vehicles, wagons or pushcarts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten (10) minutes at any one place; and

WHEREAS, that the City Council has determined that this Amendment to the Municipal Code is exempt from the California Environmental Quality Act ("CEQA") in conformance with Title 14 California Code of Regulations Section 15061(b)(3) "General Rule" and finds that no significant environmental impact will result from approving this code amendment.

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That Article 7, Mobile Food Facilities, is added to Chapter 16, Licenses and Business Regulations Generally, as follows.

Article 7. Mobile Food Facilities.

Sec. 16-405. Definitions. The following words and phrases, whenever used in this article, shall be construed as defined in this section, unless from the context a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(a) *Mobile Food Facility* means any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. "Mobile food facility" does not include a "transporter" used to transport packaged food from a food facility, or other approved source to the consumer.

(b) *Mobile Food Facility Permit* means the authorization granted by the City to a property owner or person with a possessory interest in a specific property to allow the temporary use of a Mobile Food Facility on their respective property subject to the requirements of the Article.

(c) *Operator* means the person who owns, manages, or vends from a Mobile Food Facility.

(d) *Responsible person* means a property owner, a tenant, a person occupying or having control or possession of any real property, any person with a legal interest in real property and any person who directly manages a business or property or who demonstrates responsibility for the placement or operation of a Mobile Food Facility on a specific property, or any agents thereof.

Sec. 16-406. Separate Business License and Permit Required. An Operator shall have a business license and a Responsible Person shall obtain a Mobile Food Facility Permit, as required by this Article.

(a) It shall be unlawful for an Operator to operate a Mobile Food Facility without a separate business license for each vehicle.

(b) It shall be unlawful for an Operator or a Responsible Person to allow, authorize, operate, or use a Mobile Food Facility without a Mobile Food Facility Permit unless otherwise permitted by City, state or federal law.

Sec. 16-407. Permit requirements.

(a) The Director of Community Development shall administer Mobile Food Facility Permits issued pursuant to this Article.

(b) The Director shall issue a Mobile Food Facility Permit to a Responsible Person, only for properties in residential-agricultural or industrial zones, as an accessory use to a beer or wine manufacturing business, when the proposed use will not have a significant impact on the permanent uses provided in the Escondido Zoning Code.

(c) An application for a Mobile Food Facility Permit shall be submitted on an application form secured from the Director and shall be accompanied by a nonrefundable fee. The application shall provide information necessary for review of the application by appropriate city departments.

(d) An approved special event permit or facility use permit from the City, specifically authorizing a Mobile Food Facility at the event or facility, shall exempt an Operator or a Responsible Person from the Mobile Food Facility Permit required in Section 16-406(b) and may exempt the Operator or Responsible Person from the operating requirements in Section 16-409.

(e) A Mobile Food Facility that stops for not more than ten minutes on a scheduled route to provide service directly at a construction site or other business and does not vend to the general public during the scheduled stop will exempt any Operator or Responsible Person from the requirements identified in Sections 16-406(b) and 16-409.

Sec. 16-408. Permit Enforcement. The Director of Community Development may issue administrative citations or take any other enforcement action

authorized by this Code, including permit revocation, upon finding a violation of this Article.

Sec. 16-409. Operating Requirements. It shall be unlawful for an Operator or a Responsible Person to violate any of the following regulations.

(a) Parking of a Mobile Food Facility at any location (inclusive of set-up and clean-up times) shall be limited to four hours daily for five days within any seven-day period. The hours of operation shall be stated on the use permit application and may only be modified by the director's approval of a new application setting forth the proposed operating hours.

(b) Each Mobile Food Facility operator shall have the following supporting provisions visibly available and accessible, for the duration of the approved hours of operation.

(1) Adequate number of trash and recycling receptacles, but in no case less than two, to contain the amount of anticipated trash during the authorized operational period. The receptacles shall be set up and removed by the operator, at the beginning and closing of each such period. In-truck hatch receptacles are not sufficient. The operator shall not dispose of any refuse or waste in any public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of such operator.

(2) Restroom facilities in clean working order available for operator, employee and customer use, including operational toilets and hand-washing facilities with hot water, soap, and paper towels. Such restroom shall be located no further than 200 feet travel distance from the parked Mobile Food Facility, and shall be available during the Mobile Food Facility hours of operation. If such restroom facilities are not owned, operated, or otherwise provided by the Operator, a written agreement by the owner of such facilities, stating the terms of availability of the facilities, shall be identified prior to approval by the City.

(c) Placement of the Mobile Food Facility on private property shall not reduce the number of parking spaces below that which is required for the existing on-site uses during business hours of the on-site uses unless specifically approved by the City.

(d) The Mobile Food Facility shall be entirely self-sufficient in regards to gas, electricity, water, and telecommunications.

(e) Neither the Mobile Food Facility nor any of the required support items shall obstruct or interfere with the free flow of pedestrian or vehicular traffic, including to or from any business, public building or residence, nor restrict sight distance at driveways and intersections.

(f) No Mobile Food Facility shall use, play or employ any sound, outcry, amplifier, loudspeaker or any other instrument or device for the production of

sound where said sound exceeds the exterior sound standards specified in Chapter 17, Article 12, of this code.

(g) No televisions, radios, or other device intended for amusement or entertainment purposes shall be operated in conjunction with a Mobile Food Facility.

(h) No tables, chairs, furniture or other devices to provide patron seating shall be allowed unless expressly authorized by the City.

(i) Signs for a Mobile Food Facility shall be limited to that on the vehicle only.

SECTION 2. 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 3. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. 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 City of Escondido.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 13

Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Jennifer K. McCain, Assistant City Attorney
Allegra D. Frost, Deputy City Attorney

SUBJECT: Campaign Control Ordinance

RECOMMENDATION:

Consider amendments to Chapter 2, Article 7, Sections 2-103 and 2-110 of the Escondido Municipal Code regarding campaign contributions for local elections.

FISCAL ANALYSIS:

This action will have no impact on the General Fund budget.

PREVIOUS ACTION:

The City of Escondido first adopted its Campaign Control Ordinance in 1983 with a contribution limit of \$250. In 1997, the Campaign Control Ordinance was amended to conform to newly adopted statewide campaign laws. It was amended again in 2002 to authorize use of special counsel during a local election. In 2007, the contribution limit was increased to \$500 and a Consumer Price Index (CPI) formula was added to control future increases in the limit. In 2012, the City Clerk increased the 2012-2013 election-cycle contribution limit to \$560 in order to reflect changes in the CPI.

BACKGROUND:

Recently, Councilmembers Michael Morasco and Olga Diaz requested this item be placed on the Council agenda for discussion and direction to increase the City's campaign contribution limit and to revise the cash contribution prohibition for local elective office.

State law contains numerous regulations regarding campaign contributions and disclosure which are codified in the Political Reform Act, California Government Code Sections 81000 through 91014. The Political Reform Act intended to establish a single body of law pertaining to the financing of elections. However, a city may enact campaign reform laws *in addition* to those required by the Political Reform Act so long as they do not conflict with the State law. State law provides that a person cannot make a

contribution totaling over \$4,100 per election to any candidate for state legislature. (Cal. Gov Code Sections 83124, 85301; CFPPC regulation effective Jan. 2013-Dec. 2014).

With regard to campaign contributions for local office, the Political Reform Act specifically allows cities to adopt certain limitations on the amount of money which can be contributed to candidates for local office. The Political Reform Act's contribution limits only apply to candidates for statewide office; therefore, a city's campaign contribution limits will not conflict with State law.

The Escondido Campaign Control Ordinance sets a limit of \$500 per contributor (as adjusted by CPI) to candidates for local office and requires candidates to create and maintain a campaign checking account, file campaign statements, and to refuse to accept cash or anonymous contributions. The ordinance also provides for local enforcement and penalties for violation of the ordinance.

Not all cities choose to accept local contribution limits. A review of the campaign contribution limits in other cities in San Diego County follows:

<u>City</u>	<u>Contribution Limit</u>
Carlsbad	No limit
Chula Vista	\$300
Coronado	\$200
Del Mar	\$100
El Cajon	No limit
Encinitas	\$250
Escondido	\$540*
Imperial Beach	No limit
La Mesa	No limit
Lemon Grove	\$1,000
National City	No limit
Oceanside	No limit
Poway	\$100
San Diego	\$500 for City Council; \$1,000 for Mayor or City Attorney
San Marcos	\$250

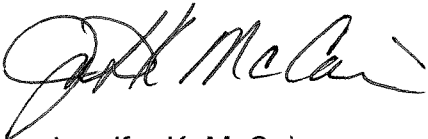
Santee	\$650
Solana Beach	\$100
Vista	\$440

* The ordinance sets a \$500 limit. The limit was recently adjusted to \$540 to reflect changes in the CPI.

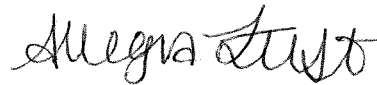
Additionally, the Council could revise the City's prohibition against cash contributions. Currently, the Municipal Code prohibits all cash and anonymous contributions. State law prohibits cash contributions of \$100 or more and anonymous contributions of \$100 or more in one calendar year. (Cal. Gov Code Sections 84300, 84304). The State's cash contribution limit applies to both state and local elections; therefore, the City may increase the cash contribution limit up to \$99.99 without conflicting with State law.

If Council decides that changes should be made to the campaign contribution ordinance, either to revise or eliminate the limit, or that changes should be made to the prohibition against cash contributions, the changes would be included in an ordinance to amend the Escondido Municipal Code for adoption at a subsequent meeting.

Respectfully submitted,



Jennifer K. McCain
Assistant City Attorney



Allegra D. Frost
Deputy City Attorney



❖ **APPOINTMENT TO THE SAN DIEGO COUNTY WATER AUTHORITY BOARD**

- There are no materials available for this item



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 15
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Public Works Director/City Engineer
Rich Buquet, Neighborhood Services Manager

SUBJECT: Reaffirm Community Development Priorities of the FY 2010-2015 Consolidated Plan for Community Development Block Grant (CDBG); Approve Allocation Process for FY 2013-2014 CDBG-Funded Activities; Approve Amendment to FY 2012-2013 One-Year Action Plan for CDBG to Transfer \$80,000 in Allocated Funds from the Tulip Street Improvement Project to the Oak Hill – Street and Modular Site Improvement Project

RECOMMENDATIONS:

1. Conduct a public hearing to review and reaffirm the community development priorities adopted in the 2010-2015 Five-Year Consolidated Plan for CDBG and to amend the FY 2012-2013 One-Year Action Plan, in the amount of \$80,000, transferred from the Tulip Street Improvement Project to the Oak Hill – Street and Modular Building Site Improvement Project.
2. Approve an allocation process for FY 2013-2014 CDBG funds to utilize the maximum 15 percent allowable for public service activities to address the priorities of the Consolidated Plan, and the maximum 20 percent allowable for administration of the CDBG program.
3. Approve an \$80,000 budget increase for the Oak Hill – Street and Modular Site Improvement Project and a second change order to purchase order #33832 with Southland Paving Inc. in the amount of \$80,000 to allow for additional street improvements on the Oak Hill – Street and Modular Site Improvement Project.

FISCAL ANALYSIS:

It is anticipated that the City of Escondido will receive approximately \$1.3 million in CDBG entitlement funds from the U.S. Department of Housing and Urban Development (HUD) for FY 2013-2014. This figure is based on notification received from HUD of an estimated 5 percent reduction to our allocation. Specific recommendations for allocations of CDBG funds will be brought to Council on May 1, 2013, for adoption in the FY 2013-2014 One-Year Action Plan. CDBG activities and related administrative costs will be funded solely by grant funds and will not impact the General Fund. Funds transferred from the Tulip Street Improvement Project for the Oak Hill-Street and Modular Building Site Improvement Project will be replenished when the FY 2013-2014 CDBG allocation is awarded.

COUNCIL ACTION PLAN:

The Priorities of the FY 2010-2015 Consolidated Plan for CDBG relate to the City Council's Action Plan regarding Economic Development, Embracing Diversity, Community Outreach, and Image and Appearance.

The Oak Hill – Street and Modular Building Site Improvement Project relates to the Council's Action Plan regarding Image and Appearance.

PREVIOUS ACTIONS:

On March 24, 2010, Council approved the FY 2010-2015 Five-Year Consolidated Plan for CDBG funds, which includes six community development priorities as outlined in this report.

On March 24, 2010, Council approved the FY 2010-11 One-Year Action plan for CDBG, which included \$300,000 for the Oak – Hill-Street and Modular Building Site Improvement Project.

April 6, 2011, Council approved the FY 2011-2012 One-Year Action Plan for CDBG, which included an additional \$75,000 allocation for the Oak Hill – Street and Modular Building Site Improvement Project.

On January 16, 2013, Council adopted Resolution No. 2013-08 authorizing the Mayor and the City Clerk to execute an agreement with Southland Paving, Inc. in the amount of \$416,181.60 for the Oak Hill – Street and Modular Building Site Improvement Project and approved a transfer in the amount of \$150,000 from the CDBG unallocated fund to cover additional street improvement work as well as the management, inspections, and the normal 10 percent contingency for this project.

On March 13, 2013, Council approved a budget increase in the amount of \$50,000 for the Oak Hill - Street and Modular Building Site Improvement Project as well as authorized a change order to increase the amount of the purchase order with Southland Paving Inc., the general contractor on the project, due to a significant and unanticipated increase of unsuitable soils in the street section of Oak Hill along the frontage area of this project.

BACKGROUND:

Based on community needs assessments and public participation, six community development priorities were identified and adopted as part of the FY 2010-2015 Five-Year Consolidated Plan for CDBG. Each year, prior to adoption of the One-Year Action Plan for CDBG, Council is asked to review and reaffirm the community development priorities and may choose to adopt changes at that time. A second public hearing to approve the FY 2013-2014 One-Year Action Plan for CDBG is scheduled for May 1, 2013.

Since the last Council meeting regarding the Oakhill project on March 13, 2013, staff has successfully negotiated with the property owner east of the Oakhill street improvements to obtain an easement along the property frontage to complete the missing sidewalk and curb and gutter. A large Eucalyptus tree in the City right-of-way will be removed to allow for new street paving. This will provide completed sidewalk and ADA improvements in this area of Oakhill Drive and will benefit the entire community, reducing liability and increasing walkability.

Past Performance of City of the Escondido CDBG Program

A comprehensive review of FY 2011-2012 CDBG funded activities is included in the Consolidated Annual Performance and Evaluation Report (CAPER), which was submitted to HUD in September 2012 and available on the Neighborhood Services Division Web page at: www.escondido.org/neighborhood-services.aspx. HUD's overall assessment of the program rated the City of Escondido's performance as 'satisfactory.'

HUD Regulations for CDBG

CDBG regulations place limitations on the amount of funding grantees may use for administration and public services. No more than 15 percent of a grantee's annual CDBG allocation may be used for public service activities and no more than 20 percent of a grantee's annual CDBG allocation may be used for program administration. There is no cap on the percentage of a grantee's annual CDBG allocation that may be used for capital and other special activities in low and moderate income neighborhoods.

CDBG-funded activities must meet at least one of three national objectives set forth by HUD:

1) Benefit low and moderate income persons; 2) aid in the elimination of slum and blight; or 3) meet a particular urgent community need because existing conditions pose a serious threat and no other source of funds is available. Historically, all CDBG funded activities in the City of Escondido have focused on the first national objective of benefitting low and moderate income persons.

Escondido's Community Development Priorities

The community development priorities approved in the FY 2010-2015 Five-Year Consolidated Plan for CDBG are:

1. Youth: Increase quality-of-life opportunities for low and moderate income students and their families by improving their social and physical environment with specific focus in the Mission Park Area.
2. Economic Development: Provide economic development opportunities for low and moderate income residents with specific focus in the Mission Park Area.

3. Transportation for Seniors: Explore and develop coordinated, low-cost, flexible transportation alternatives for seniors.
4. Neighborhood Revitalization: Identify and improve low income neighborhood areas appropriate for revitalization through direct citizen involvement.
5. Homelessness: Support comprehensive, integrated service systems to transition local homeless families and individuals to permanent or residential housing and self-sufficiency.
6. ADA Improvements: Continue to utilize CDBG and general fund resources, as they become available, to address the public facility needs identified in the City's ADA Transition Plan.

CDBG Funded Activities in Escondido

Significant progress continues to be made towards addressing the community development priorities of the FY 2010-2015 Five-Year Consolidated Plan. Additional efforts are still required to improve the quality of life for Escondido's low and moderate income residents. Such activities are currently underway for FY 2012-2013, the third year of the Consolidated Plan period, and are listed in Attachment A. Priorities of the Consolidated Plan and their corresponding activities also address current Council Action Plan priorities, specifically Economic Development and Image and Appearance.

For FY 2013-2014, the fourth year of the Five-Year Consolidated Plan, it is recommended that City Council reaffirm the community development priorities. The City's and the community's efforts in addressing these priorities to date support the continuation of services directed toward targeted low and moderate income neighborhoods. City sponsored activities continue to build upon previous successes in neighborhoods such as Los Arboles, West Side Involved Neighbors, South Tulip, and Park Place in the Mission Park Area.

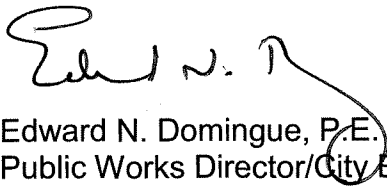
In the alternative, Council may direct that the community development priorities of the Consolidated Plan be amended to include new or additional priorities.

Allocation Process for FY 2013-14 CDBG-Funded Activities

In keeping with HUD regulation, the City of Escondido has used the allowable 15 percent public service allocation to provide services in targeted low-and moderate-income neighborhoods to address the Five-Year Consolidated Plan priorities. The City conducts two public hearings in accordance with its Consolidated Plan policy, and utilizes a streamlined allocation process for CDBG. Many public service activities are funded on a continual basis, if services are provided satisfactorily. Application materials are posted on the City's website and proposals are accepted on a year-round basis for CDBG funding.

To date, the City of Escondido has received three proposals from outside agencies for FY 2013-2014 CDBG funding: 1) Angels Depot for a senior emergency meal box program; 2) Meals on Wheels, whom we currently fund, for in home meal delivery to moderate to low income seniors; and 3) Escondido Community Child Development Center (ECCDC) for security improvements at their Lincoln Avenue location.

Respectfully submitted,



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



Rich Buquet
Neighborhood Services Manager

Attachment A

City of Escondido FY 2012-2013 CDBG Allocations
Allocation: \$1,379,868.00

Administration - 20% cap	
CDBG Administration	\$248,427
Fair Housing	\$27,546
Total	\$275,973
Public Service - 15% cap	
Learn to Swim	\$25,500
Exceptional Promise Scholarship	\$22,500
Workforce Assistance Computer Lab	\$14,800
Senior Transportation	\$19,777
Senior Nutrition	\$47,500
Senior CARE	\$6,000
Bilingual Computer Training	\$8,700
Meals on Wheels	\$12,500
SAFEWALK	\$5,000
Food 4 Kids Backpack Program	\$11,400
Winter Shelter	\$33,300
Total	\$206,977
Uncapped Capital Improvement & Other Neighborhood Revitalization Activities - (No max.)	
Grants to Blocks	\$200,000
Code Enforcement	\$60,000
Grape Street Improvements	\$200,000
Elm St/Habitat for Humanity	\$100,000
Tulip Street Improvements	\$336,915
Total	\$896,915

Total CDBG Allocations

\$1,379,865

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 16
Date: April 3, 2013

TO: Honorable Mayor and Members of the City Council
FROM: Joyce Masterson, Director of Economic Development and Community Relations
SUBJECT: 2013 AMGEN TOUR OF CALIFORNIA UPDATE

RECOMMENDATION:

It is requested that the City Council receive and file an update on plans for the 2013 AMGEN Tour of California bicycle race on May 12, 2013.

FISCAL ANALYSIS:

None

PREVIOUS ACTION:

On December 19, 2012, the City Council authorized the Mayor to enter into an agreement with AEG Cycling, LLC to serve as the Overall Start City for the 2013 AMGEN Tour of California and approved Resolution No. 2012-188 authorizing a budget adjustment in the amount of \$100,000 from the General Fund Reserve.

WORKSHOP:

The purpose of the workshop is to provide City Council and community awareness about the status of the race and related ancillary events.

Respectfully submitted,



Joyce Masterson
Director of Economic Development and Community Relations

FUTURE CITY COUNCIL AGENDA ITEMS
March 28, 2013

AGENDA ITEMS AND COUNCIL MEETING DATES ARE SUBJECT TO CHANGE. CHECK WITH THE CITY CLERK'S OFFICE AT 839-4617

APRIL 10, 2013	
4:30 p.m.	
	CONSENT CALENDAR
	PUBLIC HEARINGS:
	CURRENT BUSINESS
	Request to Initiate an Annexation, Prezone and Development Agreement for 43 Acres located southeasterly of Felicita Road and Hamilton Lane (B. Redlitz)
	<i>New Urban West is proposing a planned development with clustered homes sites on lots at least 10,000 SF in size. Clustering will allow approximately 30% of the land area that contains sensitive biological resources to be preserved as open space. The existing duck pond would be enhanced and made accessible to the public.</i>
	WORKSHOP
	2012 Water and Wastewater Master Plans (C. McKinney)
	<i>2012 Water and Wastewater Master Plans</i>
	Future Agenda Items (D. Halverson)

APRIL 17, 2013	
4:30 p.m.	
	PRESENTATION
	Marilyn Dailey, San Diego County Water Authority Board Representative
	CONSENT CALENDAR
	Award Bid for Fleet Replacement of Twelve Vehicles (G. Rojas)
	<i>On February 21, 2013, request for bids were mailed to eighteen bidders and on March 13, 2013, six bids were received and opened.</i>
	City Business Tax Reciprocal Agreement with Franchise Tax Board (B. Redlitz)
	<i>This agreement allows the California Franchise Tax Board (FTB) and the City to enter into a reciprocal agreement to exchange tax data, to assist in the administration of the business license program. FTB will provide the City records for taxpayers within the City's jurisdiction who indicate a business on their personal or corporation income tax return. Information obtained by FTB shall be used for tax administration</i>

APRIL 17, 2013
Continued

PUBLIC HEARINGS

CURRENT BUSINESS

Budget Briefing for Fiscal Year 2013/14
(G. Rojas)

The City Council adopted a two year budget for the General Fund. The Finance Department will update the General Fund 2013/14 information and take direction from the Council on preparing a new two year budget to be considered in June 2013.

Future Agenda Items (D. Halverson)